

Monday
April 2, 1979

Testis Report

Highlights

- 19216 Explanation of Format Changes in This Issue.**
- 19262 Nuclear Reactor Safeguards** NRC will hold meeting of Advisory Committee on Reactor Safeguards, Subcommittee on the Three Mile Island Nuclear Station, Unit 2, regarding general emergency declared at station; meeting 4-4-79
- 19326 Federal Energy Use** DOE proposes to implement the Solar in Federal Buildings Demonstration Program; comments by 5-31-79 hearing 4-17-79 (Part V of this issue)
- 19304 New Institutional Health Services** HEW/PHS establishes systems of review for Health Systems Agencies and State Health Planning and Development Agencies; effective 4-2-79 (Part IV of this issue)
- 19300 Recombinant DNA** HEW/NIH proposes program to assess risks of research; comments by 5-2-79 (Part III of this issue)
- 19338 Grant Programs for Schools, Hospitals, and Certain Institutions** DOE issues final rules to establish grant programs to reduce consumption, and associated costs, of conventional energy sources, effective 4-2-79 (Part VI of this issue)



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There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202-523-5240

Highlights

- 19214 Vocational Rehabilitation** HEW/OHDS announces availability of draft regulations for the designation of substitute agencies within a state
- 19193 Water Pollution** EPA clarifies catastrophic rainfall exemption to effluent limitations guidelines for existing sources in coal mining industry; effective 5-2-79
- 19190 Income Tax** Treasury/IRS provides temporary rules relating to the credit for employment of individuals of a targeted group
- 19360 Great Lakes Pilotage** DOT/CG eliminates requirement for unlimited master's license; effective 4-2-79 (Part VII of this issue)
- 19362** DOT/CG proposes to change training and experience requirements for registration of pilots; comments by 5-2-79 (Part VII of this issue)
- 19284 Improving Government Regulations** Treasury/IRS publishes semiannual agenda of regulations (Part II of this issue)
- 19206** NASA publishes semiannual agenda of regulations; effective 4-2-79
- 19214 Best Conventional Pollutant Control Technology** EPA may use data to compute costs and pollutant levels from publicly owned treatment works; comments by 5-2-79
- 19244 Tebuthiuron** EPA renews temporary pesticide tolerances (2 documents); effective 4-2-79
- 19265 International Boycott** Treasury/Secy publishes current list of countries which may require participation in, or cooperation with, an international boycott
- 19182 1978 and Subsequent Peanut Crops** USDA/CCC sets forth terms under which producers may obtain and settle farm storage loans and purchases; effective 4-2-79
- 19279 Sunshine Act Meetings**

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- 19300** Part III, HEW/NIH
- 19304** Part IV, HEW/PHS
- 19326** Part V, DOE
- 19338** Part VI, DOE
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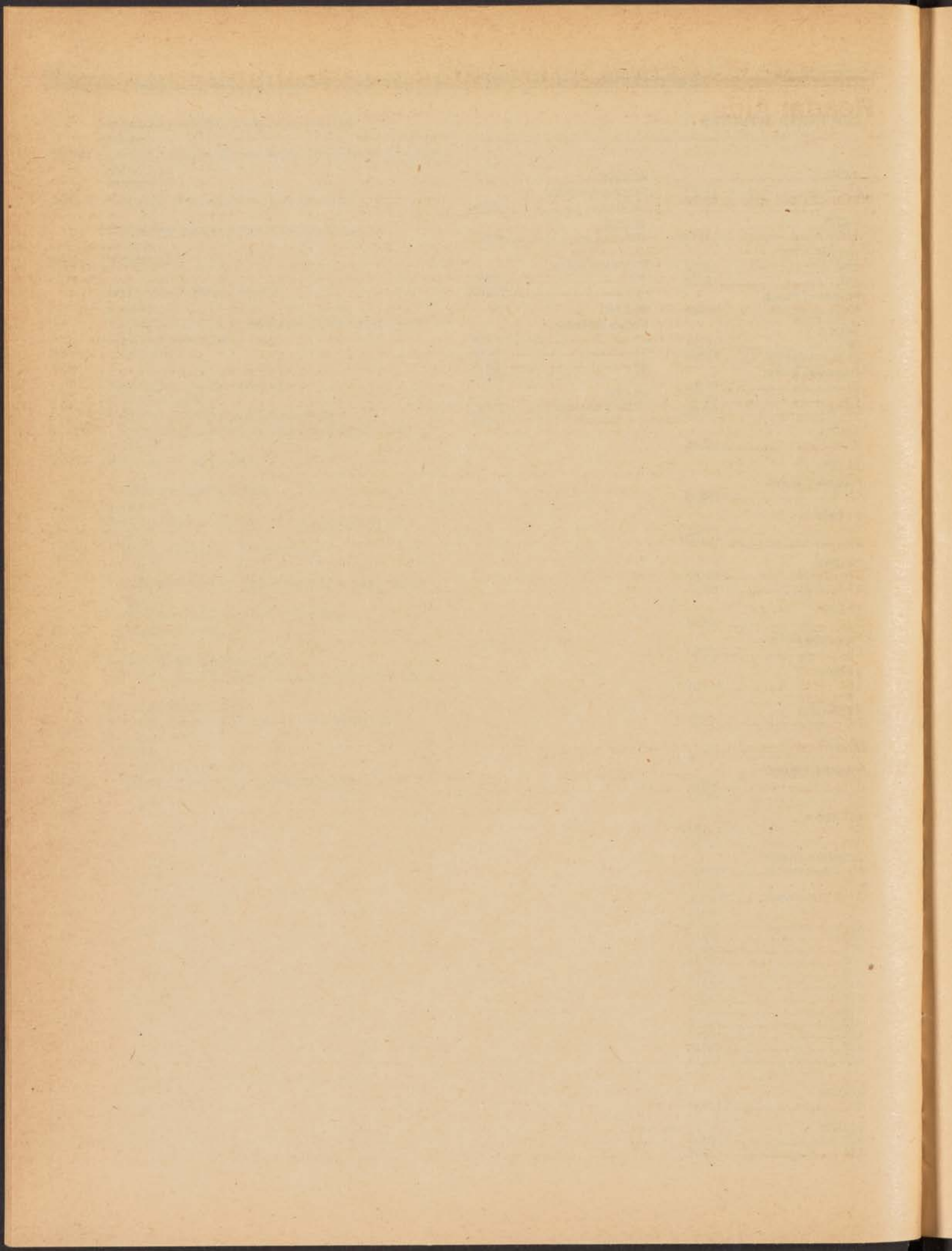
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- 202-783-3238 Subscription orders (GPO)
- 202-275-3050 Subscription problems (GPO) "Dial-a-Reg"
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- 202-523-5022 Washington, D.C.
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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

- 12019 3-5-79 / FRS—Bank holding companies; Nonbank activities
- 11755 3-2-79 / HUD—Changes in list of attorneys-in-fact

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday / Thursday or Tuesday / Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

*NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday / Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)

TABLE OF EFFECTIVE DATES AND TIME PERIODS— APRIL 1979

This table is for use in computing dates certain in connection with documents which are published in the Federal Register subject to advance notice requirements or which impose time limits on public response.

Federal Agencies using this table in calculating

time requirements for submissions must allow sufficient extra time for Federal Register scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain

falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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AGENCY ABBREVIATIONS**Used in Highlights and Reminders**

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department

AMS Agricultural Marketing Service
 ASCS Agricultural Stabilization and Conservation Service
 APHIS Animal and Plant Health Inspection Service
 CCC Commodity Credit Corporation
 CEA Commodity Exchange Authority
 EMS Export Marketing Service
 ESCS Economics, Statistics, and Cooperatives Service
 EOA Energy Office, Department of Agriculture
 FmHA Farmers Home Administration
 FCIC Federal Crop Insurance Corporation
 FAS Foreign Agricultural Service
 FNS Food and Nutrition Service
 FSQS Food Safety and Quality Service
 FS Forest Service
 RDS Rural Development Service
 REA Rural Electrification Administration
 RTB Rural Telephone Bank
 SEA Science and Education Administration
 SCS Soil Conservation Service
 TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department

Census Census Bureau
 BEA Bureau of Economic Analysis
 EDA Economic Development Administration
 FTZB Foreign-Trade Zones Board
 ITA Industry and Trade Administration
 MA Maritime Administration
 MBEO Minority Business Enterprise Office
 NBS National Bureau of Standards
 NOAA National Oceanic and Atmospheric Administration
 NSA National Shipping Authority
 NTIA National Telecommunications and Information Administration
 NTIS National Technical Information Service
 PTO Patent and Trademark Office
 USFA United States Fire Administration
 USTS United States Travel Service

DOD Defense Department

AF Air Force Department
 Army Army Department
 DCPA Defense Civil Preparedness Agency
 DCAA Defense Contract Audit Agency
 DIA Defense Intelligence Agency
 DIS Defense Investigative Service
 DLA Defense Logistics Agency
 DMA Defense Mapping Agency
 DNA Defense Nuclear Agency
 EC Engineers Corps
 Navy Navy Department

DOE Energy Department

BPA Bonneville Power Administration
 ERA Economic Regulatory Administration
 EIA Energy Information Administration
 ERO Energy Research Office
 ETO Energy Technology Office
 FERC Federal Energy Regulatory Commission
 OHADOE Hearings and Appeals Office, Energy Department
 SEPA Southeastern Power Administration
 SWPA Southwestern Power Administration
 WAPA Western Area Power Administration

HEW Health, Education, and Welfare Department

ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
 CDC Center for Disease Control
 ESNC Educational Statistics National Center
 FDA Food and Drug Administration
 HCFA Health Care Financing Administration
 HDSO Human Development Services Office
 HRA Health Resources Administration
 HSA Health Services Administration
 MSI Museum Services Institute
 NIH National Institutes of Health
 OE Office of Education
 PHS Public Health Service
 RSA Rehabilitation Services Administration
 SSA Social Security Administration

HUD Housing and Urban Development Department

CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
 CPD Community Planning and Development, Office of Assistant Secretary
 FDAA Federal Disaster Assistance Administration
 FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
 FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
 FIA Federal Insurance Administration
 GNMA Government National Mortgage Association
 ILSRO Interstate Land Sales Registration Office
 NCA New Communities Administration
 NCDC New Community Development Corporation
 NVACP Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department

BIA Bureau of Indian Affairs
 BLM Bureau of Land Management
 FWS Fish and Wildlife Service
 GS Geological Survey
 HCRS Heritage Conservation and Recreation Service
 MINES Mines Bureau
 NPS National Park Service
 OHA Office of Hearings and Appeals, Interior Department
 RB Reclamation Bureau
 SMRE Surface Mining Reclamation and Enforcement Office

JUSTICE Justice Department

DEA Drug Enforcement Administration
 INS Immigration and Naturalization Service
 LEAA Law Enforcement Assistance Administration
 NIC National Institute of Corrections

LABOR Labor Department

BLS Bureau of Labor Statistics
 BRB Benefits Review Board
 ESA Employment Standards Administration
 ETA Employment and Training Administration
 FCCPO Federal Contract Compliance Programs Office
 LMSEO Labor Management Standards Enforcement Office
 MSHA Mine Safety and Health Administration
 OSHA Occupational Safety and Health Administration
 P&WBP Pension and Welfare Benefit Programs
 W&H Wage and Hour Division

STATE State Department

AID Agency for International Development
 FSGB Foreign Service Grievance Board
 DOT Transportation Department
 CG Coast Guard

FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLS Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department

ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies

AC Aging Federal Council
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EXIMBANK Export-Import Bank of the U.S.
EPA Environmental Protection Agency
ESSA Endangered Species Scientific Authority
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPA Federal Preparedness Agency
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
ITC International Trade Commission
LSC Legal Services Corporation
MB Metric Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities

NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PRC Postal Rate Commission
PS Postal Service
RB Renegotiation Board
RRB Railroad Retirement Board
ROAP Reorganization, Office of Assistant to President
SBA Small Business Administration
SEC Securities and Exchange Commission
TVA Tennessee Valley Authority
USIA United States Information Agency
VA Veterans Administration
WRC Water Resources Council

Rules and Regulations

Federal Register

Vol. 44, No. 64

Monday, April 2, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

1 CFR Chapter I

CFR Checklist; 1978 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1978. New units issued during the month are announced on the back cover of the daily Federal Register as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is \$400 domestic, \$100 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1978):

Title	Price
1.....	\$2.75
2 [Reserved].....	
3.....	4.25
4.....	4.75
5.....	5.00
7 Parts:	
0-52.....	6.00
53-209.....	4.50
210-699.....	6.75
700-749.....	4.25
750-899.....	2.40
900-944.....	4.75
945-980.....	3.50
981-999.....	3.50
1000-1059.....	4.75
1060-1119.....	4.75
1120-1199.....	4.00
1200-1499.....	4.75
1500-2799.....	6.50
2800-2851.....	5.50
2852.....	6.00
2853-end.....	4.00

8.....	3.50
9.....	6.00
10 Parts:	
0-199.....	5.00
200-end.....	6.25
12 Parts:	
1-299.....	8.25
300-end.....	6.75
13.....	4.75
14 Parts:	
1-59.....	5.75
60-199.....	6.75
200-1199.....	5.75
1200-end.....	3.75
15.....	5.75
16 Parts:	
0-149.....	5.00
150-999.....	4.75
1000-end.....	5.25

CFR Unit (Rev. as of Apr. 1, 1978):

17.....	\$8.25
18 Parts:	
0-149.....	5.00
150-end.....	5.00
19.....	6.00
20 Parts:	
1-399.....	3.50
400-499.....	5.00
500-end.....	4.50
21 Parts:	
1-99.....	4.00
100-199.....	6.00
200-299.....	2.75
300-499.....	5.75
500-599.....	5.00
600-1299.....	4.25
1300-end.....	4.50
22.....	5.50
23.....	5.00
24 Parts:	
0-499.....	8.25
500-end.....	9.00
25.....	5.50
26 Parts:	
1 (§§ 1.0-1.169).....	5.75
1 (§§ 1.301-1.400).....	4.00
1 (§§ 1.401-1.500).....	4.75
1 (§§ 1.501-1.640).....	4.75
1 (§§ 1.641-1.850).....	4.75
1 (§§ 1.851-1.1200).....	6.00
1 (§§ 1.1201-end).....	6.50
2-29.....	4.75
30-39.....	5.50
40-299.....	5.50
300-499.....	4.75
600-end.....	3.00
27.....	8.75

CFR Unit (Rev. as of July 1, 1978):

28.....	\$4.50
29 Parts:	
0-499.....	6.25
500-1899.....	6.25
1900-1919.....	7.00
1920-end.....	5.25
30.....	6.25
31.....	6.25
32 Parts:	
40-399.....	8.50
400-589.....	4.50
590-699.....	4.50
700-799.....	6.00
800-999.....	5.50
1000-1399.....	3.50
1400-1599.....	4.50
1600-end.....	3.00
32A.....	4.00
33 Parts:	
1-199.....	6.25
200-end.....	5.75
35.....	4.75
36.....	5.00
37.....	4.00

38.....	6.50
39.....	4.25
40 Parts:	
0-49.....	4.75
100-399.....	5.50
41 Chapters:	
1-2.....	6.50
3-6.....	5.75
7.....	2.75
8.....	2.75
10-17.....	4.75
19-100.....	4.50
CFR Index.....	5.00

CFR Unit (Rev. as of Oct. 1, 1978):

42 Parts:	
1-399.....	\$6.00
43 Parts:	
1-999.....	4.25
45 Parts:	
1-99.....	4.75
150-199.....	5.25
200-499.....	3.50
46 Parts:	
1-29.....	3.25
30-40.....	3.25
41-69.....	4.50
90-109.....	3.25
110-139.....	3.25
140-155.....	3.50
166-199.....	3.00
49 Parts:	
1-99.....	3.25
1300-end.....	4.50

Office of the Federal Register

1 CFR Part 51

Incorporation by Reference; Publication Procedures

Correction

Federal Register Document 79-9578, appearing at page 18630 in the issue of Wednesday, March 28, 1979, paragraph (b)(2) of § 51.13 is corrected in this document. For the convenience of the reader, the text of the entire section is reprinted below:

§ 51.13. Procedures for approval and maintenance of incorporation by reference.

(a) The Director withdraws approval of all material incorporated by reference in the *Code of Federal Regulations* (CFR) effective on the following dates:

Incorporation by reference appearing in	Are withdrawn on
CFR Titles 1 through 16.....	January 1, 1981
CFR Titles 17 through 27.....	April 1, 1981
CFR Titles 28 through 41.....	July 1, 1980
CFR Titles 42 through 50.....	October 1, 1980

(b) Each agency that wishes material incorporated by reference in the CFR to be effective after the dates set forth in paragraph (a) of this section shall—

(1) Request the Director's approval as required by this Part and send with the

request a copy of the material to be incorporated by reference unless the material is on file with the Office of the Federal Register and is currently enforced by the agency; or

(2) If the material is already on file with the Office of the Federal Register, submit to the Director, with the request for approval, only a list of that material and the date of its last revision.

(c) Each agency that wishes material incorporated by reference in the CFR to remain effective shall annually submit to the Director a list of that material and the date of its last revision. The agency shall submit this list at least 30 days before the revision date of the CFR title in which the incorporation by reference appears.

BILLING CODE 6820-27-M

DEPARTMENT OF AGRICULTURE COMMODITY CREDIT CORPORATION 7 CFR Part 1421

Peanuts; Subpart—1978 and Subsequent Crops Peanut Farm-Stored Loan and Purchase Program Regulations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the terms and conditions under which producers may obtain and settle farm storage loans and purchases for 1978 and subsequent crops of peanuts. Quota peanuts will be eligible for both farm-stored loans and purchases. Additional peanuts will be eligible only for farm stored loans. CCC will pay the cost of inspection at time of delivery. Producers will not be paid storage and

handling charges. This rule is necessary in order to implement the 1978 and subsequent crops farm-stored peanut price support program.

EFFECTIVE DATE: April 2, 1979.

ADDRESSES: U.S. Department of Agriculture, ASCS, Price Support and Loan Division, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Dalton J. Ustynik, ASCS, (202) 447-6611.

SUPPLEMENTARY INFORMATION: On April 27, 1978, the Department published a proposed rule (43 FR 17964) regarding the 1978 and subsequent crops farm-stored loan and purchase program and invited comment on such rule. Thirteen respondents recommended a farm-stored loan program for additional peanuts. Purchases of additional peanuts are not permitted since legislation provides that additional peanuts may only be disposed of through contracts with handlers, entered into by June 14, or placed under CCC loan and not redeemed. After considering all comments, it was determined to make additional peanuts eligible for farm stored loans. This action will give producers an additional marketing tool for such peanuts and will permit producers to maintain control over their additional farm stored peanuts.

Final Rule

The regulations published in 7 CFR, §§ 1421.280-1421.289 and the title of the subpart are revised to read as follows for the 1978 and subsequent crops. The material previously appearing in these sections remains in full force and effect as to the crop years to which it was applicable.

Subpart—1978 and Subsequent Crops Peanut Farm-Stored Loan and Purchase Program

Sec.

- 1421.280 Purpose.
- 1421.281 Availability.
- 1421.282 Eligible peanuts.
- 1421.283 Determination of type and quality of farmers stock peanuts.
- 1421.284 Storage deduction for early delivery.
- 1421.285 Determination of quantity.
- 1421.286 Price support rates.
- 1421.287 Delivery charge and other charges.
- 1421.288 Maturity of loans.
- 1421.289 Producer-handler purchases of additional peanuts under loan.
- 1421.290 Transfer of producer's farm stored loan on additional peanuts to warehouse stored association loan.
- 1421.291 Required records and supervision of farm-stored additional peanuts.
- 1421.292 Settlement.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended, (15 U.S.C. 714 (b) and (c)); secs. 101, 108, 401, 403, 405, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1445c, 1421, 1423, 1425).

Subpart—1978 and Subsequent Crops Peanut Farm-Stored Loan and Purchase Program

§ 1421.280 Purpose.

This subpart, the Acreage Allotments, Marketing Quotas, and Poundage Quotas for 1978 and Subsequent Crops of Peanuts Regulations in Chapter VII of this Title 7 (herein after referred to as "acreage allotment regulations") and the General Regulations Governing Price Support for the 1978 and Subsequent Crops in this Subchapter B (hereinafter referred to as the "general regulations") to the extent that the provisions thereof are not made inapplicable by the provisions of this subpart, contain the terms and conditions under which CCC will make farm-stored peanut loans to, and purchases from, eligible producers on eligible 1978 and subsequent crops of farmers stock quota peanuts and loans to eligible producers on eligible 1978 and

subsequent crops of additional farmers stock peanuts. The General Regulations Governing 1978 and Subsequent Crops Peanut Warehouse Storage Loans and Handler Operations in this Subchapter B, and any amendments and annual crop supplements thereto (hereinafter referred to in this subpart as "the peanut warehouse storage regulations"), contain the terms and conditions under which eligible producers may obtain price support advances on eligible 1978 and subsequent crops of warehouse stored farmers stock peanuts from certain cooperative marketing associations, which acting in behalf of such producers collectively, will obtain price support warehouse storage loans from CCC.

§ 1421.281 Availability.

Producers desiring price support on farm-stored farmers stock peanuts must request a loan or notify the county ASCS office of intention to sell to CCC no later than the dates set forth in the applicable annual peanut crop supplement to the regulations in this subpart.

§ 1421.282 Eligible peanuts.

(a) *General.* In order to be eligible for a farm-stored peanut loan or purchase, farmers stock peanuts, as defined in § 1446.3 of the peanut warehouse storage regulations, must meet the requirements of this section in addition to the other eligibility requirements of § 1421.4 of the general regulations.

(b) *Eligible producer.*—(i) *General requirements.* The peanuts must have been produced by an eligible producer in one of the areas defined in § 729.3(c) of the acreage allotment regulations. For the purpose of this subpart, an eligible producer is a producer who meets the requirements of § 1421.3 of the general regulations, § 1446.13 of the peanut warehouse storage regulations, and (if applicable) subparagraph (ii) of this paragraph (b).

(ii) *Other requirements for producers obtaining loans on additional peanuts.* Producers must register as a handler in accordance with 7 CFR 729.80, prior to applying for a loan on additional peanuts.

(c) *Types.* The peanuts must be one of the types specified in § 729.4 of the acreage allotment regulations.

§ 1421.283 Determination of types and quality of farmers stock peanuts.

The type and quality of each lot of farmers stock peanuts acquired by CCC as a result of a loan or purchase shall be determined at the time of delivery to CCC by a Federal-State inspector

authorized or licensed by the Secretary, U.S. Department of Agriculture.

§ 1421.284 Storage deduction for early delivery.

The storage deduction for early delivery provided for in § 1421.22(g) of the general regulations shall be five (5) cents per day per ton for Virginia-type peanuts or four and two-tenths (4.2) cents per day per ton for all other types of peanuts from the date delivery is accomplished to, and including, the original loan maturity date. The storage deduction charge for early delivery shall not be applicable to any additional peanuts delivered to the association in accordance with § 1421.290 of this subpart.

§ 1421.285 Determination of quantity.

The quantity of peanuts placed under farm-stored peanut loans shall be determined in accordance with § 1421.17 of the general regulations and shall be expressed in units of tons and tenths of tons. Notwithstanding the provisions of § 1421.17 of the general regulations, loans shall be made on 100 percent of the estimated quantity of additional peanuts.

§ 1421.286 Price support rates.

(a) *Quota peanuts.* Loans and purchases on quota peanuts shall be at the basic quota price support loan rate for that type farmers stock peanuts as set forth in the annual peanut crop supplement to the regulations in this subpart.

(b) *Additional peanuts.* Loans on additional peanuts shall be made on the basis of 59.52 percent of the quota loan rate for that type of farmers stock peanuts as set forth in the annual peanut crop supplement to the regulations in this subpart.

§ 1421.287 Delivery charge and other charges.

(a) *Delivery charge.* A delivery charge of 20 cents per ton net weight will be made for the quantity of peanuts acquired by CCC as a result of a loan or purchase and shall be handled in accordance with § 1421.11 of the general regulations. As used in this subpart, the term "net weight" shall have the meaning specified in § 1446.3(y) of the peanut warehouse storage regulations. The delivery charge shall not be applicable to any additional peanuts delivered to the association in accordance with § 1421.290 of this subpart.

(b) *Other charges.* CCC will not pay storage or handling charges on any peanuts under farm storage loans.

§ 1421.288 Maturity of loans.

Farm-stored peanut loans will mature on demand but not later than the date specified in the annual peanut crop supplement to the regulations in this subpart.

§ 1421.289 Producer-handler purchases of additional peanuts under loan.

(a) *General.* Producer-handlers may at any time before loan maturity, forfeit their additional peanuts to CCC and immediately repurchase such peanuts from CCC by paying the amount necessary under the following sales policies:

(1) For unrestricted use, 105 percent of the quota loan rate, if purchased before December 31, and 107 percent of the quota loan rate, if purchased after December 31.

(2) For edible export, \$400 per ton.

(3) For crushing (either domestic or export), the additional support level.

Purchases before January 25. If the producer-handler purchases his additional peanuts by January 25, the county committee shall determine the sale price under the appropriate sales policy specified in subparagraph (a). Loans will be settled at the county office, and amounts collected in excess of that necessary to settle loans will be sent to the association for the respective area. The association will place the net gains and producer's names in an appropriate pool.

(c) *Purchases after January 25.* The county committee shall determine the sale price under the appropriate sales policy specified in subparagraph (a). Any amount collected in excess of the loan indebtedness shall accrue to CCC.

§ 1421.290 Transfer of producer's farm stored loan on additional peanuts to warehouse stored association loan.

Producers may deliver additional peanuts under a farm stored loan to the association and obtain loan advances on such additional peanuts with the prior approval of the county office any time prior to January 25 following the calendar year in which the crop was grown. Association advances shall be payable jointly to the producer and the county office and shall be used to settle the farm stored loan.

§ 1421.291 Required producer-handler records and supervision of farm stored additional peanuts under loan or purchased by producer-handler under loans.

(a) *Required records.* Each producer-handler shall maintain records as required in 7 CFR Part 1446 for all additional peanuts which are purchased and sold on which an MQ-94 is issued. The following records shall be

maintained for all peanuts purchased from CCC which are not inspected. Each producer-handler shall maintain records which show all sales and other disposals of peanuts. Such records shall show date of sale, quantity, type, and to whom sold. Records shall be maintained in such a manner which will enable the county office to readily reconcile quantities sold with all peanuts produced by the producer. All records shall be maintained for a period of three years following the end of the marketing year in which the peanuts were produced.

(b) *Supervision of farm-stored peanuts.*—(i) *Under loan.* The county office shall inspect and account for all additional peanuts under loan as determined necessary by the county committee.

(iii) *Additional peanuts purchased for use as seed and not inspected.* The county office shall supervise the disposition of all additional peanuts purchased for use as seed and not inspected. The identical peanuts under loan must be disposed of and the producer must account for all peanuts which were under additional loan. The producer-handler shall request a county office representative supervise the disposition of the peanuts and shall give the county office at least 3 working days notice. The county office shall determine to what extent supervision is needed.

(iii) *Additional peanuts on which MQ-94 is issued.* The producer-handler shall be subject to all provisions in Part 1446 relating to disposal of additional peanuts.

(c) *Costs of supervision.* The producer-handler shall pay all costs of supervision as determined by the county committee for county office supervision when county supervision is completed and by the association for peanuts supervised by association representatives when association supervision is completed.

(d) *Penalties.* In the event that the producer-handler disposes of more additional peanuts pledged for loan than purchased in accordance with § 1421.289, the producer-handler shall be subject to a penalty equal to 120 percent of the quota loan rate on such peanuts.

§ 1421.292 Settlement.

(a) *General.* Settlement for eligible peanuts acquired by CCC under a loan or purchase will be made with the producer as provided in paragraphs (a), (d), (e), (j), and (k) of § 1421.22 of the general regulations and in this section.

(b) *Settlement values.* (1) *General.* The settlement value of the peanuts acquired by CCC shall be the amount

computed on the basis of the net weight and quality thereof, an allowance of four-tenths of a cent (\$0.004) per pound, net weight, to compensate the producer for shrinkage during storage and less discounts of (1) \$2 per ton, net weight for each full 1 percent of foreign material in excess of 10 percent, and (ii) \$10 per ton, net weight, for peanuts containing more than 10 percent moisture.

(2) *Values for quota peanuts.* The settlement value for quota peanuts shall be the applicable quota support rates including premiums and discounts as provided in the annual peanut crop supplement to the regulations in this subpart except that the additional support rate shall be used (i) for any peanuts for a farm delivered by a producer to CCC which, when added to the peanuts otherwise marketed or considered marketed from the farm as quota peanuts, would exceed the farm poundage quota if CCC determines that the producer made an inadvertent error in determining the loan quantity (if such excess quantity was not due to an inadvertent error, such quantity shall not be accepted and shall be subject to marketing quota and/or poundage quota penalties as set forth in 7 CFR, Part 729), or (ii) for all peanuts which do not grade Segregation 1 at time of delivery, if the producer does not elect to settle such additional loan peanuts as quota peanuts. If the producer elects to settle such peanuts as quota peanuts, the quantity shall not exceed the smaller of the difference between the production of Segregation 1 peanuts on the farm and the farm poundage quota or the undermarketing of quota peanuts shown on the farm marketing card.

(3) *Values for additional peanuts.* The additional support rates (59.52 percent of the value for quota peanuts) and the premiums and discounts provided in the annual crop supplement to the regulations in this subpart.

Note.—This rule has been determined to be not significant under the USDA criteria implementing Executive Order 12044 and contains necessary operating decisions needed to implement the national average peanut price support rates announced on February 15, 1978. An approved Final Impact Statement is available from Kay Wygal, ASCS, (202) 447-6695.

Signed at Washington, D.C. on March 22, 1979.

S. N. Smith,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79-10035 Filed 3-30-79; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION Federal Aviation Administration 14 CFR Part 39

Sikorsky S-61 Series Helicopters Certificated in All Categories; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On July 31, 1978, a telegraphic airworthiness directive was issued requiring repetitive inspections for cracks and the replacement, if necessary, of the main rotor blade spindles of S-61 type helicopters.

On March 9, 1979, another telegraphic AD was issued to revise the service time for the initial ultrasonic inspection for unplated spindles from 1350 to 75 hours. This revised AD is hereby published in the *Federal Register* as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations.

DATES: Effective date—This amendment becomes effective April 2, 1979, for all persons except those to whom it was made effective immediately by telegram dated March 9, 1979.

ADDRESSES: To obtain copies of the service bulletin referenced in the AD, contact Sikorsky Aircraft, Division of United Technologies Corporation, Stratford, Connecticut 06602.

FOR FURTHER INFORMATION CONTACT: William E. Garlock, Airframe Section, ANE-212, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7336.

SUPPLEMENTARY INFORMATION: This amendment further amends Amendment 39-3305 (43 FR 44476), AD 78-20-05, as amended by Amendment 39-3425 (44 FR 12021) which currently requires repetitive ultrasonic inspections of the main rotor blade spindles of Sikorsky S-61 series helicopters. After issuing Amendment 39-3425, the FAA has determined, based upon the additional detection of spindle lug cracks in the field where crack initiation times were considerably less than 1350 hours, that the service time for the initial inspection of unplated spindles be revised from 1350 to 75 hours time in service. It has been determined that the initial inspection for plated spindles can be increased to 75 hours with no derogation of safety. The paragraph allowing the helicopters to be flown in accordance

with FAR 21.197 to a base where the ultrasonic inspection can be performed has been deleted. There has been an instance reported where the lug crack propagation was far advanced and the initial ultrasonic inspection prior to flight is therefore mandatory.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, and good cause existed for making the airworthiness directive effective immediately to all known United States operators of Sikorsky Model S-61 helicopters by individual telegrams dated March 9, 1979.

These conditions still exist and the airworthiness directive as revised is hereby published in the Federal Register as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective April 2, 1979 by addition of the following revised airworthiness directive:

Sikorsky Aircraft. Applies to S-61 series helicopters certificated in all categories, including military counterparts, equipped with P/Ns S6112-23027, S6112-23025, and S6110-23325 main rotor spindles.

Compliance required as indicated. To preclude the possibility of failure of main rotor spindles, accomplish the following:

1. Prior to further flight, unless already accomplished within the last 75 hours time in service, and thereafter at intervals not to exceed 75 hours time in service, conduct ultrasonic inspections of all S6112-23027, S6112-23025, and S6110-23325 spindles (plated and unplated), with 75 or more hours time in service, in accordance with the inspection method of Sikorsky Service Bulletin No. 61B10-33A.
2. If a crack is found during the above inspections, replace the cracked spindle with a new spindle or a serviceable spindle prior to further flight.
3. Report in writing any cracks found during the above inspections to Chief, Engineering and Manufacturing Branch, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803. Each report must include the length and location of the cracks and total time in service of the spindle (reporting approved by the Office of Management and Budget under OMB No. 04-R0174).

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Sikorsky Aircraft, Stratford, Connecticut 06602. These documents may

also be examined at FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the FAA, New England Headquarters, Burlington, Massachusetts.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in Burlington, Mass., on March 22, 1979.

Robert E. Whittington,
Director.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

[Docket No. 79-NE-06; Amdt. 39-3444]

[FR Doc. 79-9937 Filed 3-30-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Alteration of Control Zone, Anderson, S.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This rule alters the Anderson, South Carolina, Control Zone by designating additional controlled airspace. A new public use instrument approach procedure has been developed for the Anderson County Airport, and the additional controlled airspace is required to protect aircraft executing the approach procedure.

EFFECTIVE DATE: June 14, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the Federal Register on Thursday, January 18, 1979 (44 FR 3723), which proposed the designation of an extension to the Anderson County Airport Control Zone. The additional

controlled airspace is required to protect aircraft executing the new NDB Runway 35 standard instrument approach procedure. No objections were received in response to the notice.

Adoption of the Amendment

Accordingly, Subpart F, § 71.171 (44 FR 353) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, June 14, 1979, by adding the following:

Anderson, South Carolina

" * * * and within 3 miles each side of the 171° bearing from the Anderson County RBN (latitude 34°29'53"N., longitude 82°42'31"W.), extending from the 5-mile radius zone to 8.5 miles south of the RBN * * * "

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in East Point, Georgia, on March 14, 1979.

Phillip M. Swatek,
Director, Southern Region.

[Airspace Docket No. 78-50-81]

[FR Doc. 79-10005 Filed 3-30-79; 8:45 am]

Billing Code 4910-13

14 CFR Part 71

Designation of Transition Area, Danville, Ky.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This rule designates a 700-foot transition area in the vicinity of Danville, Kentucky. This action provides necessary controlled airspace for accommodation of IFR operations at Goodall Field.

EFFECTIVE DATE: April 19, 1979.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Ronald T. Niklasson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the Federal Register on January 30, 1978 (43 FR 3918) which proposed the

designation of the Danville, Kentucky, transition area. An objection was registered by the USAF Southern Regional Representative. Further negotiation has resolved this objection.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (44 FR 442) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 G.m.t., April 19, 1979, by adding the following:

Danville, Kentucky

That airspace extending upwards from 700 feet above the surface within a 7-mile radius of Goodall Field (Latitude 37°34'45" N., Longitude 84°46'10" W.); within 3.5 miles each side of the 033° bearing from the Goodall RBN (Latitude 37°34'35" N., Longitude 84°45'50" W.) extending from the 7-mile radius area to 8.5 miles northeast of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note: The Federal Aviation Administration has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in East Point, Georgia, on March 21, 1979.

George R. Lacaille,
Acting Director, Southern Region.

[Airspace Docket 78-SO-2]

[FR Doc. 79-10006 Filed 3-30-79; 8:45 am]

Billing Code 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

Formal Waiver Procedures Applicable to Law Firms; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Correction to rule.

SUMMARY: This document corrects FR Doc. 78-23404 appearing at page 36897 in the Federal Register of August 21, 1978, by adding the statutory authority and renumbering footnote 10. This amendment was adopted pursuant to the authority found in Sec. 19 of the Securities Act of 1933, 48 Stat. 85, Sec. 23, as amended, of the Securities Exchange Act of 1934, 48 Stat. 901, Sec. 20 of the Public Utility Holding Company Act of 1935, 49 Stat. 833, Sec. 319 of the Trust Indenture Act of 1939, 53 Stat. 1173, Sec. 38 of the Investment Company Act of 1940 and Sec. 211 of the Investment Advisers Act, 54 Stat. 841

and 855, respectively; 15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11; E.O. 11222; 3 CFR, 1964-1965 Comp., 5 CFR 735.104.

Footnote 10 in the middle column on page 36900 should be renumbered 11.

DATE: March 27, 1979.

FOR FURTHER INFORMATION CONTACT: Myrna Siegel, Office of the General Counsel, Securities and Exchange Commission, Washington, D.C., 20549, 202-376-3561.

March 27, 1979.

Shirley E. Hollis,
Assistant Secretary.

[Release No. 33-5953; 34-15064; 35-20673; 39-511; 1A-636; IC-10351]

[FR Doc. 79-10057 Filed 3-30-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Parts 193, 561

Tebuthiuron; Tolerances for Pesticides in Food and Animal Feed Administered by the Environmental Protection Agency

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This rule amends 21 CFR 193.415 and 561.371 by renewing for two years the present food and feed additive regulations permitting residues of the herbicide tebuthiuron in sugarcane syrup, molasses, and bagasse with tolerance limitations of 0.3 part per million (ppm). The renewal was requested by Elanco Products Co. This rule will permit the marketing of sugarcane syrup, molasses, and bagasse while further data is collected on the subject pesticide.

EFFECTIVE DATE: Effective April 2, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Taylor, Product Manager 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755-7013).

SUPPLEMENTARY INFORMATION: On May 6, 1977, the EPA announced (42 FR 23148) that in response to a petition (FAP 5H5066) submitted by Elanco Products Co., Div. of Eli Lilly & Co., P.O. Box 1750, Indianapolis, IN 46206, 21 CFR 193.415 and 561.371 were being amended to permit residues of the herbicide tebuthiuron (N-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-N,N-dimethylurea) in sugarcane syrup, molasses, and

bagasse resulting from application of the herbicide to growing sugarcane in a proposed experimental program with tolerance limitations of 0.3 ppm for residues of the herbicide in accordance with an experimental use permit that was being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). This experimental program expired March 11, 1979.

Elanco Products Co. has requested a two-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of food commodities affected by the application of the herbicide to the growing raw agricultural commodity sugarcane.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued concurrently under FIFRA. It has further been determined that since residues of the pesticide may result in sugarcane syrup, molasses, and bagasse from the agricultural uses provided for in the experimental use permit, the food and feed additive regulations should be renewed along with the tolerance limitations. (A related document concerning the renewal of temporary tolerances for residues of the subject pesticide in or on the raw agricultural commodities sugarcane; eggs; milk; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep appears elsewhere in today's Federal Register.) Accordingly, food and feed additive regulations are renewed as set forth below.

Any person adversely affected by this regulation may, on or before May 2, 1979 file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective April 2, 1979, 21 CFR 193.415 and 561.371 are amended as set forth below.

Dated: March 23, 1979.

Statutory Authority: Section 409(c)(1) of the Federal Food, and Cosmetic Act [21 U.S.C. 348(c)(1)].

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

1. Part 193, Subpart A, § 193.415, is amended as follows:

§ 193.415 [Amended]

In § 193.415, the date at the end of the 11th line is changed from "March 11, 1979" to "March 26, 1981."

2. Part 561, section 561.371 is amended as follows:

§ 561.371 [Amended]

In § 561.371, the date starting at the end of the 11th line is changed from "March 11, 1979" to "March 26, 1981."

[FRL 1087-7; FAP 5H5066/T45]

[FR Doc. 79-10041 Filed 3-30-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 41

Potawatomi Tribe or Nation of Indians; Distribution of Funds

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is amending its regulations to include requirements for enrollment and a deadline for filing applications to be enrolled to share in the distribution of funds derived from a judgment awarded the Potawatomi Tribe and Nation of Indians. A plan for the disposition of the judgment funds was developed and presented to Congress as required by law. The amendment will implement that plan.

EFFECTIVE DATE: April 2, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Fairbanks, Superintendent, Michigan Agency, Bureau of Indian Affairs, P.O. Box 884, Sault Ste. Marie, Michigan 49783, telephone 906-632-6809.

SUPPLEMENTARY INFORMATION: On August 9, 1978, a proposed amendment to Title 25, Code of Federal Regulations, Part 41, was published in the *Federal Register* (43 FR 35346) for comment. The purpose of the amendment is to include in the regulations requirements for enrollment to share as a lineal descendant in funds derived from an award to the Potawatomi Tribe or Nation of Indians by the Indian Claims Commission in dockets 15-K, 29-J and

217 and dockets 15-M, 29-K and 146. A deadline for applying for enrollment is also established.

No comments or suggestions were received. The only change in the amendment is the insertion in § 41.3(dd)(2) of the deadline for filing applications, November 15, 1979.

The authority for issuing this amendment is contained in 5 U.S.C. 301 and sections 463 and 465 of the revised statutes (25 U.S.C. 2 and 9) and 230 DM 1 and 2.

The amendment proposes a deadline for applying for enrollment to share in the judgment funds. The 30-day deferred effective date would curtail the filing period, which would not be in the public interest. Therefore, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970).

The Department of the Interior has determined that this document does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The principal author of this amendment is Ms. Janet L. Parks, Chief, Branch of Tribal Enrollment Services, Bureau of Indian Affairs, Washington, D.C. 20242.

Part 41, Chapter I of Title 25 of the Code of Federal Regulations is amended by the addition of a new paragraph (dd) to read as set forth below. No further changes are made in the text of Part 41.

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

§ 41.3 Qualifications for enrollment and the deadline for filing.

(dd) *Potawatomi Indians of Michigan and Indiana.* (1) All persons born on or prior to and living on March 6, 1978,

(i) Who are citizens of the United States, and

(ii) Whose names appear on or as lineal descendants can trace their ancestry to persons designated on the following official records of Potawatomi Indians or Michigan and Indiana: Cadman payment roll of 1896, Taggart census roll of 1904, other payment or annuity rolls of persons designated as "Potawatomi Indians of Michigan and Indiana," Huron Band, Pokagon Band, or "Notawasepi and other Bands," acceptable to the Secretary, and

(iii) Who are not enrolled or entitled to be enrolled as members of the Citizen Band of Potawatomi Indians, Oklahoma, Prairie Band of Potawatomi Indians, Kansas, Hannahville Indian Community of Michigan, or the Forest County Potawatomi Community, Wisconsin.

(2) Applications for enrollment must be filed with the Superintendent, Michigan Agency, Bureau of Indian Affairs, P.O. Box 884, Sault Ste. Marie, Mich. 49783, and must be received at the agency no later than close of business November 15, 1979. Applications received after that date will be rejected for failure to file in time, regardless of whether the applicant otherwise meets the requirements for enrollment.

[FR Doc. 79-0925 Filed 3-30-79; 8:45 am]

BILLING CODE 4310-02

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 43

Eastern Creek Indians; Preparation, Certification and Approval of Roll

March 23, 1979.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is adding a new part to its regulations to establish procedures for the preparation of a roll of Eastern Creek Indians eligible to share in the distribution of judgment funds.

EFFECTIVE DATE: The new regulations will become effective April 2, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas J. Ellison, Area Director, Bureau of Indian Affairs, Federal Building, Muskogee, Oklahoma 74401, telephone 918-687-2296.

SUPPLEMENTARY INFORMATION: Proposed regulations for the preparation of a roll of Eastern Creek Indians were published for comment in the *Federal Register* on September 25, 1978 (43 FR 43327). The roll to be prepared will be used to distribute to eligible Eastern Creek Indians funds apportioned to the Eastern Creeks from the award to the Creek Nation in Indian Claims Commission docket 275.

Several comments were received concerning the provisions of proposed § 43.7(b) which specify when a notice of eligibility or rejection is considered to have been made. The commentators believe that considering a notice made if a certified letter is returned undelivered will deprive rejected applicants of their right to appeal. Several reasons are cited as the basis for this belief—the people live in remote areas where mail deliveries are irregular and some are without transportation to go to a post office to pick up certified mail.

The United States Postal Service makes one attempt to deliver a certified letter. If the addressee is not at home a notice of attempt to deliver the letter is left. The notice advises the addressee that the letter is being held at the post office and that the addressee has the option of picking up the letter or telephoning the post office to arrange for delivery at another time. The post office will hold the letter for 15 days before returning it to the sender. In most instances this would appear to be an adequate procedure.

It is not our intent to deprive any rejected applicant of his right to appeal. Therefore, to accommodate applicants who may not be able to pick up their certified mail or to arrange for another delivery we have modified § 43.7 to include a procedure for remailing, by regular mail, notices returned by the postal service as "Unclaimed." The burden is on the applicant to keep the Director advised of his current address [§ 43.5(c)]. Therefore, notices returned undelivered because the addressee has moved and left no forwarding address, or for any other reason, other than "Unclaimed," will not be remailed.

The only other modification to the regulations is the insertion in § 43.3(b) of the deadline of November 15, 1979, for filing applications.

The authority for issuing this amendment is contained in 5 U.S.C. 301 and sections 463 and 465 of the revised statutes (25 U.S.C. 2 and 9) and 230 DM 1 and 2.

The regulations impose a deadline for applying for enrollment to share in the judgment funds. The 30-day deferred effective date would curtail the filing period, which would not be in the public interest. Therefore, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (1970).

Note.—The Department of the Interior has determined that this document does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The principal author of these regulations is Ms. Janet L. Parks, Chief, Branch of Tribal Enrollment Services, Bureau of Indian Affairs, Washington, D.C. 20242.

Subchapter F of Chapter I of Title 25 of the Code of Federal Regulations is

amended by the addition of a new part to read as set forth below.

Rick Lavis,
Deputy Assistant Secretary—Indian Affairs.

PART 43—PREPARATION OF A ROLL OF EASTERN CREEK INDIANS

Sec.

- 43.1 Definitions.
- 43.2 Purpose.
- 43.3 Qualifications for enrollment and the deadline for filing.
- 43.4 Application and information forms.
- 43.5 Filing of applications and information forms.
- 43.6 Burden of proof.
- 43.7 Action by the Director.
- 43.8 Appeals.
- 43.9 Decision of the Secretary on appeals.
- 43.10 Preparation of roll.
- 43.11 Certification and approval of the roll.
- 43.12 Special instructions.

Authority: 5 U.S.C. sec. 301, R.S. secs. 463 and 465; 25 U.S.C. 2 and 9, and 87 Stat. 466.

§ 43.1 Definitions.

As used in these regulations:

(a) "Plan" means the plan for the use and distribution of Creek judgment funds awarded in docket 275 before the Indian Claims Commission, prepared pursuant to the Act of October 19, 1973, and effective June 15, 1978.

(b) "Secretary" means the Secretary of the Interior or his authorized representative.

(c) "Assistant Secretary" means the Assistant Secretary of the Interior for Indian Affairs or his authorized representative.

(d) "Director" means the Area Director, Muskogee Area Office, Bureau of Indian Affairs, or his authorized representative acting under delegated authority.

(e) "Staff officer" means the Enrollment Officer or other person authorized to prepare the roll.

(f) "Living" means born on or prior to and living on the date specified.

(g) "Lineal ancestor" means an ancestor, living or deceased, who is related to the applicant by direct ascent; namely, parent, grandparent, et cetera. It does not include collateral relatives such as brothers, sisters, aunts, uncles, et cetera.

(h) "Descendants" means those persons who are the issue of the ancestor through whom enrollment rights are claimed, namely the children, grandchildren, et cetera. It does not include collateral relatives such as brothers, sisters, nieces, nephews, cousins, et cetera.

(i) "Sponsor" means a parent, recognized guardian, next friend, next of kin, spouse, executor, or administrator of estate, the Director, or other person

who files an application for enrollment on behalf of another person.

(j) "1968 roll" means the roll of persons designated as Eastern Creek who were eligible to share in the distribution of Creek judgment funds in docket 21 prepared under the act of September 21, 1968, 82 Stat. 855. It does not include those Creek descendants who established eligibility through an ancestor who was a member of the Creek Nation of Oklahoma.

(k) "Indian lineage" means descent by blood from an Indian lineal ancestor.

§ 43.2 Purpose.

The regulations in this part are to govern the compilation of a roll of persons who meet the requirements specified in the plan to serve as the basis for distributing the Eastern Creek portion of judgment funds awarded the Creek Nation of Indians in Indian Claims Commission Docket 275.

§ 43.3 Qualifications for enrollment and the deadline for filing.

(a) The roll shall contain the names of persons living on June 15, 1978, who were listed on the 1968 roll as Eastern Creeks and those who file timely applications and establish that:

(1) They are the children of persons whose names appear on the 1968 roll, regardless of whether the enrolled parent is living or deceased.

(2) They were not enrolled on the 1968 roll although they met the requirements for enrollment as Eastern Creeks as specified in section 1 of the act of September 21, 1968, 82 Stat. 855, i.e.,

(i) They were living on September 21, 1968.

(ii) Their names or the names of lineal ancestors appear on any of the documents listed below or on any available census rolls or other records acceptable to the Secretary, which identify the person as a Creek Indian, including ancient documents or records of the United States located in the National Archives, State, or county records in the archives of the several States or counties therein, or in the courthouses thereof, and other records that would be admissible as evidence in an action to determine Indian lineage.

(A) Claims of Friendly Creek Indians paid under the act of March 3, 1817 (H.R. Doc. 200, 20:1, 1828);

(B) Census of the Creek Nation, 1833, made pursuant to article 2 of the treaty concluded March 24, 1832 (Senate Doc. 512, 1835, Emigration Correspondence, 1831–33, pp. 239–395);

(C) Land Location Registers of Creek Indian Lands, made pursuant to the treaty of March 25, 1832;

(D) Any emigration or muster rolls of Creek Indians;

(E) Any lists of self-emigrant Creek claimants (including those contained in Senate Ex. Doc. 198, 50:1, 1888, and H.R. Ex. Doc. 238; 51:2, 1891).

(3) They are children of persons who qualify for enrollment under (2) of this paragraph.

(b) Applications must be filed with the Area Director, Bureau of Indian Affairs, Federal Building, Muskogee, Okla. 74401, and must be received in his office no later than the close of business on November 15, 1979. Applications received after that date will be rejected for failure to file on time, regardless of whether the applicant otherwise meets the requirements for enrollment. If the filing deadline falls on a Saturday, Sunday, or legal holiday or other nonbusiness day, the deadline will be the next working day thereafter.

§ 43.4 Application and information forms.

(a) Persons entitled to enrollment under paragraph (a)(1) of § 43.3 (1968 enrollees) do not need to reapply for enrollment. They must, however, complete an information form advising the Director of any changes in name and/or address. The Director shall mail an information form to each person on the 1968 roll using the last address of record. Changes in information on the roll will be made only if information form is signed by an adult 1968 enrollee, if living, or the parent or guardian having legal custody of a minor 1968 enrollee. The information form may also be used to notify the Director of the date of death of a deceased 1968 enrollee.

(b) Applications to be filed by applicants for enrollment will be furnished by the Director, or other designated persons upon written or oral request. Each person furnishing application forms shall keep a record of the names of individuals to whom applications are given, as well as the control numbers of the forms and the date furnished. Instructions for completing and filing applications shall be furnished with each form. The form shall indicate prominently the deadline for filing applications.

(c) Among other information, each application shall contain:

(1) Certification as to whether application is for a natural child or an adopted child of the parent through whom eligibility is claimed.

(2) If the application is filed by a sponsor, the name and address of sponsor and relationship to applicant.

(3) A control number for the purpose of keeping a record of applications furnished interested individuals.

§ 43.5 Filing of applications and information forms.

(a) Any person, except a 1968 enrollee, who desires to be enrolled and believes he meets the requirements for enrollment specified in the plan and the regulations in this part must file or have filed for him a completed application form with the Director or other designated person on or before the deadline specified in § 43.3.

(b) Written application forms for minors, mentally incompetent persons or other persons in need of assistance, for members of the Armed Services or other services of the U.S. Government and/or members of their families stationed in Alaska, Hawaii, or elsewhere outside the continental United States, or for a person who died after June 15, 1978, may be filed by the sponsor on or before the deadline.¹

(c) Every applicant or sponsor shall furnish the applicant's mailing address on the application. Thereafter, he shall promptly notify the Director of any change in address, giving appropriate identification of the application; otherwise the address as stated shall be acceptable as the proper address.

§ 43.6 Burden of proof.

The burden of proof of eligibility for enrollment rests upon the applicant. Documentary evidence such as birth certificates, baptismal records, death certificates, copies of probate findings or affidavits must be used to support claim for enrollment.

§ 43.7 Action by the director.

(a) The Director shall consider each application. Upon determining an applicant's eligibility, the Director shall notify the applicant or sponsor, as applicable, in writing of his decision. If the decision is favorable, the name of the applicant shall be placed on the roll. If the Director decides the applicant is not eligible, he shall notify the applicant or sponsor, as applicable, in writing by certified mail, to be received by the addressee only, return receipt requested, and shall explain fully the reasons for rejection and of the right to appeal to the Secretary. (If correspondence is sent out of the States of the United States, it may be necessary to use registered mail.) If an individual files applications on behalf of more than one person, one notice of eligibility or rejection may be addressed to the person who filed the applications. However, said notice must list the name of each person involved. If a certified or registered notice is returned as "Unclaimed" the Director

shall remain the notice by regular mail together with an acknowledgment of receipt form to be completed by the addressee and returned to the Director. If the acknowledgment of receipt is not returned, computation of the appeal period shall begin on the date the notice was remailed. Certified or registered notices returned for any reason other than "Unclaimed" shall not be remailed.

(b) A notice of eligibility or rejection is considered to have been made on the date (1) of delivery indicated on the return receipt, (2) of acknowledgment of receipt, (3) of personal delivery, or (4) of the return by the post office of an undelivered certified or registered letter.

(c) In all cases where an applicant is represented by an attorney, such attorney will be recognized as fully controlling the same on behalf of his client; and service of any document relating to the application shall be considered to be service on the applicant he represents. Where an applicant is represented by more than one attorney, service upon one of the attorneys shall be sufficient.

(d) To avoid hardship or gross injustice, the Director may waive technical deficiencies in applications or other submissions. Failure to file by the deadline does not constitute a technical deficiency.

§ 43.8 Appeals.

Appeals from rejected applications must be in writing and must be filed pursuant to part 42 of this subchapter, a copy of which shall be furnished with each notice of rejection.

§ 43.9 Decision of the Secretary on appeals.

The decision of the Secretary on an appeal shall be final and conclusive, and written notice of the decision shall be given to the applicant or sponsor. When so directed by the Secretary, the Assistant Secretary shall cause to be entered on the roll the name of any person whose appeal has been sustained.

§ 43.10 Preparation of roll.

The staff officer shall prepare a minimum of five copies of the roll of those persons determined to be eligible for enrollment, including those whose appeals were sustained. In addition to other information which may be shown, the complete roll shall contain for each person an identification number, name, address, sex, date of birth, and in the remarks column, when applicable, the basic roll number, date of the basic roll, and name and relationship of the

¹ Criminal penalties are provided by statute for knowingly filing false information in such settlements. (18 U.S.C. 1001.)

ancestor on the basic roll through whom eligibility was established.

§ 43.11 Certification and approval of the roll.

A certificate shall be attached to the roll by the staff officer certifying that to the best of his knowledge and belief the roll contains only the names of those persons who were determined to meet the requirements for enrollment. The Director shall approve the roll.

§ 43.12 Special instructions.

To facilitate the work of the Director the Assistant Secretary may issue special instructions not inconsistent with the regulations in this part.

[Docket 275]

[FR Doc. 79-9933 Filed 3-30-79; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5

Temporary Income Tax Regulations Under the Revenue Act of 1978; Credit for Employment of Certain New Employees

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the credit for employment of individuals qualifying as members of a targeted group. These temporary regulations provide rules regarding the making of an election to claim the targeted jobs credit. In addition, a definition of "program of vocational education" relating to youths participating in a qualified cooperative education program is provided, as well as the requirements for certifying members of this group. Changes to the applicable tax law were made by the Revenue Act of 1978.

DATE: The temporary regulations apply generally to amounts paid or incurred after December 31, 1978, for taxable years ending after that date, to members of a targeted group first hired after September 26, 1978, and to certain vocational rehabilitation referrals hired before September 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Douglas W. Charnas, of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224

(Attention: CC:LR:T, 202-566-3346).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the credit for employment of individuals qualifying as members of a targeted group. The temporary regulations are necessary because of the amendments made to sections 44B and 51 by section 321 of the Revenue Act of 1978 (Pub. Law 95-600, 92 Stat. 2830). The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject. Additional rules will be adopted, but they will appear first as proposed regulations in a notice of proposed rulemaking to be issued at a later time.

Effective Date

In general, a taxpayer may elect to claim a credit under section 44B (as amended by the Revenue Act of 1978) for amounts paid or incurred after December 31, 1978, for taxable years ending after that date, to members of a targeted group. Generally, to qualify for the credit, the amounts must be paid or incurred to members of a targeted group first hired after September 26, 1978. However, amounts paid or incurred after December 31, 1978, to a vocational rehabilitation referral hired before September 27, 1978, may qualify for the credit if a credit under section 44B (as in effect prior to enactment of the Revenue Act of 1978) was claimed for the individual by the taxpayer for a taxable year beginning before January 1, 1979.

Election to Claim Targeted Jobs Credit

Paragraph (b) of § 5.44b-1 provides that the taxpayer may make the election by merely claiming the credit on an original or amended tax return. The election may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

Youths Participating in a Qualified Cooperative Education Program

Section 51 (d) (1) lists seven targeted groups. One of the targeted groups consists of youths participating in a qualified cooperative education program. To qualify as a youth participating in a qualified cooperative education program, the school offering the program must certify that the individual meets certain requirements. Section 5.51-1 provides that a school may satisfy the certification requirement by completing Form 6199. The term

"program of vocational education", which is an integral part of the definition of a "qualified cooperative education program", is defined in the regulations.

Waiver of Certain Procedural Requirements

There is need for expeditious adoption of the provisions contained in this document because fiscal year taxpayers with taxable years ending in 1979 will need immediate guidance on the procedures for electing the credit provided by section 321 of the Revenue Act of 1978 and schools offering qualified cooperative education programs will need immediate guidance on the requirements for certifying students participating in these programs. For this reason, Jerome Kurtz, Commissioner of Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of the Treasury Department directive implementing Executive Order 12044 must be waived.

Drafting Information

The principal author of this regulation is Douglas W. Charnas of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the following new sections are adopted and inserted in part 5, Temporary Income Tax Regulations under the Revenue Act of 1978 (26 CFR Part 5):

§ 5.44B-1 Credit for employment of certain new employees.

(a) *In general.* Under section 44B (as amended by the Revenue Act of 1978) a taxpayer may elect to claim a credit for wages (as defined in section 51(c)) paid or incurred after December 31, 1978, for taxable years ending after that date to members of a targeted group (as defined in section 51(d)). Generally, to qualify for the credit, the wages must be paid or incurred to members of a targeted group first hired after September 26, 1978. However, wages paid or incurred after December 31, 1978, to a vocational rehabilitation referral (as defined in section 51(d)(2)) hired before September 27, 1978, may qualify for the credit if a credit under section 44B (as in effect prior to enactment of the Revenue Act of 1978) was claimed for the individual by the taxpayer for a taxable year beginning before January 1, 1979. The amount of the credit shall be determined

under section 51. Section 280C(b) (relating to the requirement that the deduction for wages be reduced by the amount of the credit) will not apply to taxpayers who do not elect to claim the credit.

(b) *Time and manner of making election.* The election provided for in section 44B (as amended by the Revenue Act of 1978) may be made by claiming the credit on an original return, or on an amended return at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for the taxable year (determined without regard to extensions). The election may be revoked within the above-described 3-year period by filing an amended return on which the credit is not claimed.

§ 5.51-1 Youth participating in a qualified cooperative education program.

For an individual to qualify as a "youth participating in a qualified cooperative education program" under section 51(d)(8), the individual must be certified in writing by the qualified school (as defined in section 51(d)(8)(C)) participating in the program as meeting the conditions specified in section 51(d)(8)(A). The school may satisfy the certification requirement by completing Form 6199. For purposes of section 51(d)(8)(B) relating to the definition of a "qualified cooperative education program", the term "program of vocational education" means an organized educational program which is directly related to the preparation of individuals for employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree. An "organized education program" means only instruction related to the occupation or occupations for which the students are in training.

There is need for the immediate guidance provided by the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 44B and 7805 of the Internal Revenue Code of 1954 (92 Stat.

2834, 26 U.S.C. 44B; 68A Stat. 917, 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: March 21, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

[T.D. 7607]

[FR Doc. 79-9850 Filed 3-30-79; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

31 CFR Part 51

State and Local Fiscal Assistance; Changes in Definitions

AGENCY: Office of Revenue Sharing
Department of the Treasury.

ACTION: Interim Regulation.

SUMMARY: This regulation amends and clarifies the definition of "program or activity" contained in the interim non-discrimination Revenue Sharing regulations published under the State and Local Fiscal Assistance Act of 1972, as amended (the Revenue Sharing Act), and deletes the definition of the term "funded." The purpose of the amendment is to clarify ORS jurisdiction in accordance with governing case law.

EFFECTIVE DATE: APRIL 2, 1979.

ADDRESS: Comments may be sent to: Chief Counsel, Office of Revenue Sharing (Symbol CC), Department of Treasury, Washington, D.C. 20226.

FOR FURTHER INFORMATION CONTACT: Herman Schwartz, Chief Counsel, Office of Revenue Sharing, (202) 634-5184.

SUPPLEMENTARY INFORMATION:

Background

On October 10, 1976, the Revenue Sharing Act 31 U.S.C. 1221 *et seq.* was substantially amended by the State and Local Fiscal Amendments of 1976 (Pub. L. 94-488). Interim regulations were published on April 6, 1977, to implement the 1976 Amendments to the nondiscrimination requirements of the Revenue Sharing Act. Sections 51.51 (e) and (i) of those interim regulation provide as follows:

51.51(e) "Funded" means funds have been made available for expenditure in a designated program or activity through legislative action.

51.51(i) "Program or activity" means any function conducted by an agency or department of the recipient government which government has received or is receiving entitlement funds, or by any other

unit of government or private contractor which has received or is receiving entitlement funds from the recipient government.

On October 15, 1976, the Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701 *et seq.*, was amended by Pub. L. 94-503. The nondiscrimination provisions of that Act, which is administered by the Law Enforcement Assistance Administration (LEAA), were amended in substantially the same manner as the 1976 Amendments to the Revenue Sharing Act.

The operative language with respect to jurisdiction is virtually identical in the Revenue Sharing Act and the Crime Control Act—no discrimination in any program or activity funded in whole or in part with LEAA or Revenue Sharing funds. However, the implementing regulations under these two Acts differ in form, though not in substance. The LEAA regulations implementing the Crime Control Act do not define "funded", and "program or activity" is defined in 28 CFR 42.202(g) as follows:

"Program or activity" means the operations of the agency or organizational unit of government receiving or substantially benefiting from the financial assistance awarded; e.g., a police department or department of corrections.

Although the language of their respective regulations differs, the LEAA and ORS have consistently interpreted the term "program or activity" to constitute the department or agency of the recipient government to which the Federal funds were allocated for use. This administrative interpretation has been upheld by the Federal courts. In several cases, the courts have ruled that the jurisdiction of LEAA and ORS includes the entire department in which the funds were used for a project, and is not limited "to discrimination which may occur in the individually funded projects under the particular agency [of the recipient government]." *U.S. v. Baltimore County et al.* C.A. No. H-78-836 Slip Op. at 11 (D. Md. 7/3/78), citing *Capel v. Lamb*, C.A. No. LV 77-118 RDF (D. Nev. 5/23/78) and *U.S. v. Commonwealth of Virginia*, C.A. No. 76-0623-R (E.D. Va. 4/18/77). In *U.S. v. City and County of San Francisco*, C.A. No. C-73-0657 RFP (N.D. Cal. 9/22/78), a case under the Revenue Sharing Act, the Court held that the entire Police Department was the "program or activity" and did not deem it necessary to inquire into which specific projects of the Department had used Revenue Sharing funds. See also *U.S. v. City of Chicago*, 395 F. Supp. 329 (N.D. Ill., 1975).

In light of this uniform and long standing administrative position that the

term "program or activity" in the Revenue Sharing and Crime Control Acts has the same meaning, and the Federal court rulings upholding this interpretation, the ORS has determined that in the interest of clarity and interagency consistency, its regulation defining "program or activity" should be amended and the regulation defining "funding" should be deleted to conform to LEAA's regulations. That objective is accomplished by these amendments to the ORS regulations.

Need for Immediate Guidance

Because these amendments are primarily procedural and necessary to provide immediate guidance to recipient governments, it is impractical to issue this regulation in accordance with the notice and public procedures prescribed by 5 U.S.C. 553(b), or subject to the effective date limitations of 5 U.S.C. 553(d).

Non-Significant Regulation

Because these amendments are (1) essentially procedural, (2) do not materially change existing, or establish new policy, and (3) do not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of those affected, ORS has determined they do not meet the criteria for significant regulations established by the Treasury Department.

Authority

These regulations are issued under the authority of the State and local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. 1221 *et seq.*, and Treasury Department Order No. 224, dated January 26, 1973, (38 FR 3342) as amended by Treasury Department Order No. 242 (Revision 1, dated May 17, 1977). 31 CFR Part 51, Subpart E is hereby amended in the manner set forth below.

Bernadine Denning,
Director, Office of Revenue Sharing.

Approved:

Roger C. Altman,
Assistant Secretary.

Title 31 of the Code of Federal Regulations is amended by deleting paragraph (e) of § 51.51 and revising paragraph (i) of § 51.51.

§ 51.51 Definitions

(e) [deleted]

(i) "Program or activity" means the operations of the agency or organizational unit of the government receiving or substantially benefiting from entitlement funds, e.g., a police

department; department of corrections; health department.

[FR Doc. 79-9845 Filed 3-30-79; 8:45 am]

BILLING CODE 4810-28-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

Drawbridge Operation Regulations; Ashley River, S.C.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Seaboard Coast Line (SCL) Railroad Company, the Coast Guard is changing the regulations governing the SCL bridge across the Ashley River, mile 12.0, to require that the draw open on signal from 7 a.m. to 11 p.m. At all other times the draw will open on signal if at least three hours notice is given. This change is made because of limited requests for openings from 11 p.m. to 7 a.m. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw.

EFFECTIVE DATE: This amendment is effective on May 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: On December 7, 1978, the Coast Guard published a proposed rule (43 FR 57305) concerning this amendment. The Commander, Seventh Coast Guard District, also published these proposals as a Public Notice dated December 8, 1978. Interested persons were given until January 8, 1979 to submit comments.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

Three comments were received which either had no comment or no objection to the proposal.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.245(g)(19) immediately after § 117.245(g)(18) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridge where constant attendance of draw tenders is not required.

(g) * * *

(19) Ashley River, mile 12.0, Seaboard Coast Line Railroad bridge, near Drayton Hall, S.C. The draw shall open on signal from 7 a.m. to 11 p.m. At all other times the draw shall open on signal if at least three hours notice is given.

(Sec. 5, 28 Stat. 362, as amended, sec 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: March 26, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard, Commandant.

[CGD 78-130]

[FR Doc. 79-10032 Filed 3-30-79; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

Approval of Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Rulemaking.

SUMMARY: This final rulemaking amends the Maryland State Implementation Plan (SIP) to include a Consent Order issued by the Circuit Court for Montgomery County, Maryland, for the Chalk Point Generating Station of the Potomac Electric Power Company (PEPCO). The Order requires PEPCO to bring the Chalk Point Generating Station into compliance with final emission limitations for total suspended particulates (TSP) by December 31, 1981. Interim limitations adequate to protect National Ambient Air Quality Standards (NAAQS) will be in effect until that date. The Order also requires PEPCO to assure that this plant causes no violations of the NAAQS for sulfur dioxide (SO₂).

EFFECTIVE DATE: April 2, 1979.

ADDRESSES: Copies of the Order and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th &

Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: Raymond d. Chalmers.
Bureau of Air Quality and Noise Control,
State of Maryland, 201 W. Preston Street,
Baltimore, Maryland 21201. ATTN: George
Ferreri.

Public Information Reference Unit, Room
2922—EPA Library, U.S. Environmental
Protection Agency, 401 M Street, S.W.
(Waterside Mall), Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: On March 21, 1978 the then Acting Governor of Maryland, Blair Lee III, submitted to EPA, Region III, a proposed revision of the Maryland State Implementation Plan consisting of a Consent Order for the Chalk Point Generating Station of the Potomac Electric Power Company (PEPCO). The Governor certified that the Order was adopted in accordance with the public hearing and notice requirements of 40 CFR, Part 51.4 and all relevant State procedural requirements, and asked that EPA consider the Consent Order as a revision of the State Implementation Plan.

The Order requires PEPCO to bring the Chalk Point Station into compliance with Maryland's air pollution control regulations for particulates. The Order also requires PEPCO to assure that this plant causes no violations of sulfur dioxide air quality standards.

1. PEPCO must operate Chalk Point's coal burning units #1 and #2 in compliance with the following TSP emission limitations based on million BTU per hour heat input. The plant may emit no more than 0.6 pounds of particulates per million BTU heat input.

The compliance status of each unit is determined by stack testing. If, following the test, it is necessary to operate a unit which does not comply with the interim requirements set forth above, that unit must be operated at a load reduced by an amount which linearly proportional to the amount by which the stack test result exceeded the interim requirement. The Company thereafter may increase the load of a unit only for the purpose of testing the unit to determine compliance at an elevated level. The fixed load limit established by these tests assures continued compliance with the maximum interim emission limits.

2. The ash content of coal used as fuel by Chalk Point's Units #1 and #2 may not exceed an average of fifteen percent for any month, based on a minimum of four weekly composite samples collected and tested by the company.

3. Visible emissions from Chalk Point's coal burning units may not be darker in shade or appearance than that designated as #2 on the Ringlemann Smoke Chart or exceed an opacity greater than forty percent.

4. PEPCO must submit semi-annual progress reports to Maryland by July 10 and January 10 of each year until compliance is achieved.

The Order also requires PEPCO to take action to limit sulfur oxide emissions from the Chalk Point generating plant. Sulfur oxide emissions from the plant's coal burning units #1 and #2 are limited to 3.5 pounds per million BTU input averaged over a two-hour period as determined by continuous in-stack measurement. Emissions from the plant's oil burning unit #3 are limited by the requirement that it burn no more than two percent sulfur content residual oil.

These SO₂ emission control limitations, not Maryland's SO₂ control regulations, are established by the Order as the basis for controlling emissions from the Chalk Point facility. NAAQS have been shown by air quality modeling to be adequately protected by these limitations. To further assure that the NAAQS are protected, PEPCO is required to report emissions and air quality levels in the vicinity of Chalk Point by July 1, 1979 for the period from February 27, 1978 to July 1, 1979, and to protect emissions through 1985. Maryland will review the data to determine if applicable air quality standards are attained and will be maintained through 1985.

Should Maryland determine that any applicable ambient air quality standards for sulfur oxides or other compounds of sulfur is or will be exceeded at any time through the year 1985, PEPCO is required to purchase fuel which meets the requirements of Maryland's SO₂ emission control regulation in accordance with the following schedule:

October 1, 1979—PEPCO informed by Maryland of need to purchase complying fuel.
January 1, 1980—PEPCO required to select a supplier of a complying fuel. The Company will commence equipment modifications to enable this fuel to be burned.
May 1, 1980—PEPCO shall complete the equipment modifications.
November 1, 1980—PEPCO shall achieve full compliance with Maryland's SO₂ regulation.

A review, similar to that described above, will be repeated by Maryland in five-year intervals commencing with the year 1984 and continuing thereafter. If at any time Maryland determines that any applicable ambient air quality standard for sulfur oxides or other compounds of sulfur will be exceeded, PEPCO will submit a timetable for purchase and use of fuel in compliance with Maryland's SO₂ regulation similar to the above schedule.

This revision was proposed in the Federal Register on November 8, 1978

(40 FR 52033). During the public comment period, no comments were received.

The revision has been found to meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR, Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

In view of this finding, the Administrator approves the amendment of the Maryland SIP to include the Consent Order for PEPCO's Chalk Point power plant.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401)

Dated: March 28, 1979.

Douglas M. Costle,
Administrator.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart V—Maryland

1. In § 52.1070 Identification of Plan, paragraph (c)(22) is added:

§ 52.1070 Identification of Plan.

(c) Title of plan:
(22) A Consent Order for the Chalk Point power plant issued by the Circuit Court for Montgomery County on February 27, 1978

[FRL 1084-6]

[FR Doc. 79-10019 Filed 3-30-79; 8:15 am]

BILLING CODE 6560-01-M

40 CFR Part 434

Coal Mining Point Source Category; Effluent Limitations Guidelines for Existing Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This amendment clarifies the catastrophic rainfall exemption to effluent limitations guidelines for existing sources of water pollution in the coal mining industry, 40 CFR Part 434, Subparts B-D.

EFFECTIVE DATE: May 2, 1979. This amendment will not affect national pollutant discharge elimination system permits made final before May 2, 1979.

FOR FURTHER INFORMATION CONTACT: William Telliard, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: On October 17, 1975, EPA proposed regulations adding Part 434 to Title 40 of the Code of Federal Regulations (40 FR 48830). Those regulations, with subsequent amendments, established effluent limitations guidelines based on use of the best practicable control technology currently available (BPT) for existing sources in the coal mining point source category. These were followed, on April 26, 1977, with final BPT effluent limitations guidelines for this category (42 FR 21380).

On September 19, 1977, the Agency published proposed standards of performance for new sources (NSPS) within this category based on application of the best available demonstrated control technology (42 FR 46932). These standards of performance were promulgated in final form on January 12, 1979. 44 FR 2586.

In both existing source regulations and new source performance standards there is an exemption provided for catastrophic precipitation events that overwhelm properly designed and maintained treatment facilities. The need for such an exemption provision is explained in the preamble to the final existing source regulations. 42 FR 21381-2 (April 26, 1977).

The appropriateness of EPA's catastrophic precipitation provision is one of the issues before the United States Court of Appeals for the Fourth Circuit in challenges to the existing source BPT regulations. *Consolidation Coal Co., et al. v. Costle, etc.*, No. 76-1690, etc. The question of how a catastrophic precipitation event exemption should be worded also has been before the Department of Interior in its rulemaking involving environmental standards for surface mines under the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87.

The exemption in the BPT regulations promulgated on April 26, 1977 provides: Any untreated overflow, increase in volume of a point source discharge, or discharge from a by-pass system from facilities designed, constructed, and maintained to contain or treat the discharges from the facilities and areas covered by this subpart which would result from a 10-year 24-hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

The new source performance standards promulgated on January 12,

1979, contain an exemption provision which reads:

Upon satisfactory demonstration by the discharger, any overflow, increase in volume of a discharge, or discharge from a bypass system, resulting from a 10 year/24 hour or larger precipitation event or from a snow melt of equivalent volume, from facilities designed, constructed and maintained to contain or treat the volume of water which would result from a 10 year/24 hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

Finally, the final surface mining regulations, signed by the Secretary of Interior on March 5, 1979 and creating 30 CFR Chapter VII, state in their relevant portions:

(a) A discharge from the disturbed areas is not subject to the effluent limitations of this Section, if—

- (1) The discharge is demonstrated by the discharger to have resulted from a precipitation event equal to or larger than a 10-year 24-hour precipitation event; and
- (2) The discharge is from facilities designed, constructed and maintained in accordance with the requirements of this Part.

Clearly, there are differences in the wording of the three provisions, and yet in effect the provisions are quite similar. Nevertheless, in order to make EPA's BPT regulations identical to the new source performance standards in this respect, and to make both EPA regulations consistent with the Surface Mining Regulations, EPA today is conforming the BPT regulations to the new source performance standards. The Agency had announced in the January 12 preamble that intention to make BPT and new source standards identical with respect to the catastrophic precipitation exemption. 44 FR 2588.

In the original BPT regulations EPA intended that the burden of demonstrating that the exemption is justified is on the discharger. That is now made explicit, and is consistent with the Surface Mining Act regulations. There is an additional change. As a result of the amendments announced today, BPT regulations will—like the other two—tie the exemption to demonstration that an actual catastrophic event occurred rather than simply that the properly designed and maintained containment facility experienced an overflow or bypass. (The Agency believes that in practice there would have been no difference in application of the exemption provisions in that regard.)

In an effort to avoid disturbing final NPDES permits that have been written based on the BPT regulations and possibly causing confusion and litigation over a change in language that EPA

believes will make little if any practical difference, the amendments announced today will apply only to NPDES permits issued in final form May 2, 1979.

Dated: March 27, 1979.

Douglas M. Costle,
Administrator.

§§ 434.22, 434.32 and 434.42 [Amended]

40 CFR 434.22(c), 434.32(b) and 434.42(b) are each amended to read as follows:

* * * * *

Upon satisfactory demonstration by the discharger, any overflow, increase in volume of a discharge, or discharge from a bypass system, resulting from a 10 year/24 hour or larger precipitation event or from a snow melt of equivalent volume, from facilities designed, constructed and maintained to contain or treat the volume of water which would result from a 10 year/24 hour precipitation event, shall not be subject to the limitations set forth in paragraph (a) of this section.

[FRL 1087-5]

[FR Doc. 79-10022 Filed 3-30-79; 8:45 am]

BILLING CODE 6560-01-M

NUCLEAR REGULATORY COMMISSION

41 CFR Part 20

Contractor Organizational Conflicts of Interest

AGENCY: Nuclear Regulatory Commission.

ACTION: Final Rule.

SUMMARY: This regulation establishes policies and procedures for the Nuclear Regulatory Commission (NRC) with respect to the avoidance of contractor organizational conflicts of interest. The regulation is intended to avoid, eliminate, or neutralize contractual relationships which might lead NRC offerors and contractors to give advice and assistance that is not unbiased, impartial, objective and technically sound. Additionally, it seeks to eliminate the opportunities for an unfair competitive advantage that might accrue to an NRC contractor.

EFFECTIVE DATE: May 3, 1979.

FOR FURTHER INFORMATION CONTACT: Edward L. Halman, Director, Division of Contracts, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 427-4460.

SUPPLEMENTARY INFORMATION: Section 7 of Pub. L. 95-209, the NRC authorization Act for fiscal year 1978,

required the NRC to promulgate guidelines regarding organizational conflicts of interest. The Conference Committee stated in its report (H.R. Rep. 95-788) that the NRC guidelines could be modeled on those previously adopted by Congress for the Federal Energy Administration (FEA) and the Energy Research and Development Administration (ERDA).

On January 24, 1978, the NRC published in the Federal Register (43 FR 3288) proposed regulations on the avoidance of contractor organizational conflicts of interest. The proposed regulations incorporated the substance of the FEA and ERDA statutes commended to NRC by Congress. Interested persons were invited to submit comments on the proposed regulations until February 23, 1978. In November, 1978 Pub. L. 95-601 added Section 170A to the Atomic Energy Act of 1954 requiring the NRC to promulgate a rule concerning conflicts of interest in accordance with 5 U.S.C. 553. The language of Section 170A is substantially identical to that of the ERDA and FEA statutes upon which the NRC proposed rule was based. No substantive changes in the proposed rule are required because of the enactment of Section 170A. Since the public has already been afforded notice of and the opportunity for comment upon the proposed rule, the Commission for good cause finds that additional notice and public procedures thereon is unnecessary. Accordingly, the following regulations are adopted in final form pursuant to the authority of Section 170A of the Atomic Energy Act of 1954, as amended.

The following is a brief summary of the major features of the rule. The rule sets forth two primary tests to be applied by NRC in its effort to avoid contractor organizational conflicts of interest: (1) Might the contractor, if awarded the contract, be placed in a position where its judgment may be biased and (2) Might the contractor receive an unfair competitive advantage based on the performance of the contract? Solicitations for certain contracts will require offerors to represent whether the award of a contract would involve factual situations of the type set forth in the rule which may lead to conflicts of interest. If so, an offeror must submit information regarding its relationships so that the contracting officer may decide upon an appropriate course of action. If the contracting officer determines that a conflict of interest exists, the contracting officer may disqualify the offeror, or include clauses in the contract designed

to avoid the conflict. A procedure for waiver of the policy is provided under narrowly defined circumstances when the work cannot be performed other than by a contractor involved in a conflict. A clause will be included in contracts requiring the contractor to refrain from other work which may give rise to a conflict and giving the NRC the power to terminate the contract if a conflict is discovered after award.

In response to the comments on the proposed rule, several substantive and editorial changes have been made to the rule. The most significant comments and the responses are summarized below.

Summary of Comments and Responses

1. Three commentors requested clarification of the time period over which a conflict of interest might be considered to exist. They suggest that the regulation should establish a reasonable time interval between work done for industry and work for the NRC after which existing conflicts of interest would be waived.

Response: Whether prior work performed by an offeror gives rise to a conflict of interest is a question which must be dealt with in the context of the facts of each case. If, for instance the contemplated NRC effort involves the evaluation of a product supplied to industry by an offeror the offeror will be ineligible for the contract regardless of the length of time between the furnishing of the product to industry and the award of the NRC contract. In other cases, a temporary exclusion from contracting may suffice. For example, a contractor who develops specifications for a competitive procurement may be excluded by a clause in the contract from competing for the first competitive procurement which utilizes the specifications. Similarly, a contractor, who has access to data not available to the public concerning NRC plans, policies or programs which is integral to future competitive procurements may be permitted to compete after the data is made public. In any case, the occurrence of certain events, rather than the mere passage of time, may remove a contractor from a conflict of interest situation. Each judgment will be made on an ad hoc basis using the criteria set forth in § 20-1.5403(a). Where appropriate, individual clauses can be negotiated to deal with the problems presented by a particular set of circumstances as provided in § 20-1.5405-2(A).

In addition, as a result of the above discussion, Section 20-1.5405-2(b)(2) is revised to temporarily bar the contractor who prepares specifications which will

be used in a follow-on competitive procurement of products or services covered by such specifications. This contract clause now provides that such contractor is ineligible from participating or performing the first or initial contract effort based on the specifications in question rather than restricting the contractor permanently as the rule had originally been drafted.

2. A commentor suggested NRC, through its proposed regulation, should distinguish types of contract performers as well as types of contract activities. Specifically it is pointed out that the nature and diversification of the work performed by an Independent Contracting Research Organization (ICRO) needs to be evaluated according to a different set of conflict of interest standards than a commercial concern. The commentor believes that the self-interest of a non-profit ICRO assures that no bias could arise. Furthermore, the commentor believes that the work of an ICRO would lose its independence and objectivity by the restrictions placed on it by the proposed NRC regulation.

Response: There is nothing inherent in the nature of ICRO's which would prevent conflicts of interest from arising. While ICRO's do not make a profit as such, they still depend upon government and industry for their business and compete with other firms for this business. The NRC recognizes that enlightened self-interest may militate against a firm yielding to a motive for bias but cannot permit the existence of such a motive, regardless of the integrity of its contractors. It is hoped that this rule will contribute to, rather than decrease, the independence and objectivity of NRC contractors.

3. One commentor expressed the belief that the proposed regulations do not recognize the autonomous nature of ICRO laboratories.

Response: If NRC is assured that affiliates operate independently; that technical controls do not emanate from a common hierarchy; that legally each affiliate is autonomous, then ICRO affiliates will be treated independent of one another for conflict of interest purposes. If NRC's analysis reveals that there is not autonomy between affiliates or components of a parent company, then the conflict of interest rules would be applicable with respect to the relationship between the ICRO and its affiliates.

4. A commentor suggested that adherence to the Representation Statement proposed by OFPP is far less cumbersome and more manageable than the analogous § 20-1.5404(b) in the NRC

proposed regulation because it allows the contractor to make its own determination as to possible conflicts.

Response: It is NRC's intention to require offerors to disclose relationships such as those outlined in § 20-1.5403(b) rather than reaching their own conclusions regarding the conflict of interest implications of those relationships. NRC believes that it is the responsibility of the government to evaluate potential conflict of interest relationships. The situations set forth in § 20-1.5403(b)(1) are intended to assist the offeror in completing the representation required by Section 20-1.5404(b).

5. One commentator questioned the absence of "development" from the definition of "research" in § 20-1.5402(b).

Response: Within the present scope of its mission, NRC does not undertake development. The existing definitions and scope of the rule adequately cover the activities of NRC in the research field.

6. A commentator asked that there be a clarification of the termination method which would result from the application of this proposed regulation.

Response: Inasmuch as this regulation will fit into the framework of a specific contract, the contractor's procedural and appeal rights thereunder will be covered by the applicable contract clause. The rule has been modified in § 20-1.5405-1(g) to make clear the right of the NRC to terminate for default in those circumstances where a contractor's nondisclosure or erroneous representation amounts to bad faith.

7. Two commentators feel that NRC has never had a significant situation or relationship to which the proposed regulation would apply and which has worked to NRC's detriment.

Response: The NRC is required by law to formalize through the rule making procedure, its standards regarding conflicts of interest. The fundamental concepts found in the rule have always been applied by the Commission. In fact, the NRC has had to resolve organizational conflict of interest situations, which otherwise could have materially and adversely affected NRC interests.

8. Three commentators suggested that the proposed rule will work to the disadvantage of the competitive process by excluding those contractors who have gained experience by virtue of prior NRC contracts.

Response: These commentators are equating "unfair" competitive advantage with the normal increase in expertise brought about by virtue of the

experience gained while performing a contract. This rule is not aimed at the latter. Rather, it is aimed at unfair competitive advantage which, for example, might accrue to one contractor being privy to information not available to the public.

9. Two commentators recommended that since they are already operating under the Department of Energy (DOE) conflict of interest regulations any additional regulations would be superfluous.

Response: Because of the protection already afforded by DOE regulations, the NRC-DOE Memorandum of Understanding and NRC Bulletin 1102, it is NRC's intention not to impose these regulations on interagency agreements between DOE and NRC. Provisions directed at avoiding conflicts of interest will be included in agreements with agencies other than DOE as appropriate. Section 20-1.5401(c) has been added to delineate the scope of the rule.

10. One commentator expressed the view that Government-Owned Contractor-Operated (GOCO) facilities should be exempt from NRC's proposed conflict of interest regulations.

Response: There is nothing inherent in the supervision and control by a government agency over the conduct and activities of a contractor which would prevent conflicts of interest from arising. However, it should be pointed out that GOCO facilities performing work under interagency task orders with DOE will be governed by the DOE conflict of interest rules.

11. One commentator verbally inquired whether it was the intent of the proposed rule to cover NRC's licensing procedures for nuclear power plants.

Response: The conflict of interest rule contained in this subpart applies to contractors and offerors only. Individuals or firms who have other relationships with NRC (e.g., parties to a licensing proceeding) are not covered by this regulation. This rule does not apply to the acquisition of consulting services through the personnel appointment process, NRC agreements with other government agencies, international organizations, or state, local, or foreign governments; separate procedures for avoiding conflicts of interest will be employed in such agreements, as appropriate.

12. One commentator expressed concern that strict application of the NRC proposed regulations will preclude architect-engineer firms from securing additional work beyond the initial phase of a particular project in which they were involved. It is pointed out that this restriction will be costly and time

consuming to other phases of the same project.

Response: NRC believes, in view of the clear intention of the regulation, that it would be manifestly inappropriate to grant a class exemption for architect-engineer services. The purpose of the regulation, as intended by the Congress and the Commission, was to avoid precisely the type of relationship the commentator envisioned. That intention is to preclude a contractor from being put in the position of evaluating his own previous work as a condition precedent to the performance of a related follow-on effort.

13. One commentator stated that the Commission in promulgating the proposed regulation has attempted to establish requirements that exceed the intent of Pub. L. 95-209, December 13, 1977 directing the Commission to "promulgate guidelines" (italics supplied) and recommends that NRC adopt the guidelines found in Appendix G of the Armed Services Procurement Regulations (ASPR).

Response: The Commission's regulations setting forth conflict of interest guidelines are consistent with and not in derogation of the mandate given to it by the Congress. While Pub. L. 95-209 directed the Commission to "promulgate guidelines," the Conference Report, H.R. Rep. 95-788, specifically stated that the Commission's guidelines could be modeled on those which Congress previously adopted for the FEA and ERDA. In Pub. L. 95-601, Congress added Section 170A to the Atomic Energy Act of 1954, using language similar to that applicable to FEA and ERDA, requiring the Commission to adopt a rule on conflicts of interest. It is the judgment of the Commission that the guidelines in ASPR Appendix G would not satisfy the requirements of Section 170A of the Atomic Energy Act.

14. Two commentators believe that the references throughout the proposed rule aimed at requiring offerors to disclose their "potential" conflicts of interest are too broad and should be limited to avoiding "actual" conflicts of interest only.

Response: The rule is concerned ultimately with a determination as to whether an actual conflict of interest exists. An offeror or contractor may not be eliminated from consideration for award if a conflict of interest relationship is determined to be remote or theoretical. In Section 20-1.5401(b), we state the ultimate test is: Might the contractor, if awarded the contract, be placed in a position where its judgment may be biased or where it may have an

unfair advantage? Likewise, in Section 20-1.5406, the regulation states that after evaluating all information, a contracting officer must determine whether a conflict of interest exists. The term "potential conflict of interest" defined in § 20-1.5402(j) is used throughout the rule merely to assist and guide the offeror and the NRC in their deliberations as to whether sufficient information is available to make a proper determination.

In addition to changes brought about by comments received and discussed above, additional staff recommendations account for the deletion of § 20-1.5403(b)(8). It is the view of NRC that since its functions are regulatory in nature, the opportunity for a particular industry to benefit from a contract even though the offeror or contractor as part of that industry would receive no special benefits is remote. This situation would be more likely to arise in production or developmental contracts not commonly associated with NRC's mission. Also, the word "future" in § 20-1.5403(b)(2) (i), (ii), and (iii), describing situations or relationships which may give rise to organizational conflicts of interest is deleted. Its impact was more of form rather than substance and does not materially assist offerors or contractors.

15. Two commentators feel that application of the rule will severely restrict competition to the point that new firms or those with minimal experience and ability will be the primary sources for NRC contract work to the detriment of NRC's research goals.

Response: Commentors assume that work for the regulated industry automatically excludes a firm from performing under an NRC contract. The NRC does not believe that the thrust of these rules will impair industry's participation or otherwise impede the competitive process. In this connection, § 20-1.5403(c) is illustrative of the results one might expect from judicious application of this rule to contractors who perform work for both the regulated industry and the NRC.

Summary of Changes

(a) The authority line is revised to reflect passage of Pub. L. 95-601, directing NRC to promulgate a rule on conflicts of interest. Pub. L. 95-601 added Section 170A to the Atomic Energy Act of 1954, as amended.

(b) Revise § 20-1.5402(f) to read "Contractor means any person, firm, unincorporated association, joint venture, co-sponsor, partnership, corporation, affiliates thereof, or their

successor in interest, including its chief executive, directors, key personnel (identified in the contract), proposed consultants or subcontractors, which is a party to a contract with the United States of America." "Co-sponsor" and "successors in interest" have been added to the definition of contractor to bring these legal entities within purview of the rule, consistent with the contract clause definition set forth in § 20-1.5402(f).

(c) Section 20-1.5403(a) is revised to indicate that a determination of unfair competitive advantage must begin by asking the question might an offeror accrue an unfair competitive advantage by virtue of the award.

(d) A definition of "potential conflict of interest" has been added as § 20-1.5402(j) to clarify the process by which the NRC seeks to deal with actual conflicts of interest.

(e) Add a new subparagraph (c) to § 20-1.5401 to reflect that the conflict of interest rule applies to contractors and offerors only and does not apply to individuals who have other relationships with NRC (e.g., parties to a licensing proceeding), the acquisition of consulting services through the personnel appointment process, or interagency agreements.

(f) Revise § 20-1.5402(e) to read "For the purpose of this policy contract means any contract, agreement, or other arrangement with the NRC except as provided in § 20-1.5401(c)."

(g) Section 20-1.5403(b) has been restructured. The situations and relationships have been subdivided into two categories—(b)(1) and (b)(2). The first category is aimed at the disclosure of information about those situations which are essentially within the purview of the offeror or contractor's knowledge. The second category deals with those situations which by their nature are already known to the NRC and warrant further inquiry. Also, the proposed § 20-1.5403(b)(8) dealing with general benefit to the industry is deleted because it falls outside the nature of the Commission's activity. Finally, the word, "future" is deleted from § 20-1.5403(b)(2) (i), (ii), and (iii).

(h) Add an introductory sentence to § 20-1.5403(c) to read "The following examples are illustrative only and are not intended to identify and resolve all contractor organizational conflict of interest situations."

(i) A new example is added as § 20-1.5403(c)(5). This example represents a current, typical situation taken from experience.

(j) Section 20-1.5405-1(g) is revised to read "For breach of any of the above

proscriptions or for intentional nondisclosure or misrepresentation of any relevant interest required to be disclosed concerning this contract, or for such erroneous representations as necessarily imply bad faith, the government may terminate the contract for default, disqualify the contractor from subsequent contractual efforts, and pursue other remedies as may be permitted by law or this contract." The words "proscriptions against nondisclosure" are grammatically incorrect. Additionally, the section now consolidates the remedy provided in § 20-1.5405-1(d)(iii), which is deleted, and makes clear that the remedies are directed at conduct amounting to bad faith.

(k) Section 20-1.5405-2(a) is revised to provide for the use of special contract provisions for either avoidance or neutralization of conflicts, as appropriate. In the case of neutralization, the rule makes clear that a waiver must first be obtained.

(l) Revise § 20-1.5405-2(b)(2) by deleting the word "any" after the word "in" and before the word "contractual" and insert in lieu thereof the words "the initial." As restructured, the contract clause would bar a contractor from participating or performing the initial (first) contract effort based on his drafting of the specifications rather than declaring such contractor permanently ineligible to participate in all anticipated follow-on efforts.

(m) Because the term "subcontractor" excludes supply subcontracts from the rule, language is deleted from § 20-1.5410 as superfluous.

(n) Section 20-1.5411 is revised to reflect the standard required by statute to be applied in the granting of a waiver, namely, that it is in the best interest of the United States. The third element necessary for waiver, that appropriate measures can be employed to neutralize the conflict, is changed to refer to conflicts in general rather than to the particular case where the conflict may result in biased performance of the work.

(o) Section 20-1.5412 is revised to make clear that the remedy provided in this section is debarment.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5, United States Code, the following Part 20 to Title 41 Code of Federal Regulations is hereby adopted and published as a document subject to codification.

PART 20-1—GENERAL

Subpart 20-1.54—Contractor Organizational Conflicts of Interest

Sec.	
20-1.5401	Scope and policy.
20-1.5402	Definitions.
20-1.5403	Criteria for recognizing contractor organizational conflicts of interest.
20-1.5404	Representation.
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20-1.5405-1	General contract clause.
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20-1.5406	Evaluation, findings, and contract award.
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20-1.5408	[Reserved]
20-1.5409	[Reserved]
20-1.5410	Subcontractors.
20-1.5411	Waiver.
20-1.5412	Remedies.

AUTHORITY: Sec. 8, Pub. L. 95-601, adding sec. 170A to Pub. L. 83-703, 68 Stat. 919, as amended (42 U.S.C. ch. 14).

§ 20-1.5401 Scope and policy.

(a) It is the policy of the U.S. Nuclear Regulatory Commission (NRC) to avoid, eliminate or neutralize contractor organizational conflicts of interest. The NRC achieves this objective by requiring all prospective contractors to submit information describing relationships, if any, with organizations or persons (including those regulated by NRC) which may give rise to actual or potential conflicts of interest in the event of contract award.

(b) Contractor conflict of interest determinations cannot be made automatically or routinely; the application of sound judgment on virtually a case-by-case basis is necessary if the policy is to be applied so as to satisfy the overall public interest. It is not possible to prescribe in advance a specific method or set of criteria which would serve to identify and resolve all of the contractor conflict of interest situations which might arise; however, examples are provided in these regulations to guide application of the policy. NRC contracting and program officials must be alert to other situations which may warrant application of this policy guidance. The ultimate test is: Might the contractor, if awarded the contract, be placed in a position where its judgment may be biased, or where it may have an unfair competitive advantage?

(c) The conflict of interest rule contained in this subpart applies to contractors and offerors only. Individuals or firms who have other relationships with NRC (e.g., parties to a licensing proceeding) are not covered by this regulation. This rule does not apply to the acquisition of consulting services through the personnel appointment

process, NRC agreements with other government agencies, international organizations, or state, local or foreign governments; separate procedures for avoiding conflicts of interest will be employed in such agreements, as appropriate.

§ 20-1.5402 Definitions.

(a) "Organizational conflicts of interest" means that a relationship exists whereby a contractor or prospective contractor has present or planned interests related to the work to be performed under an NRC contract which: (1) May diminish its capacity to give impartial, technically sound, objective assistance and advice or may otherwise result in a biased work product, or (2) may result in its being given an unfair competitive advantage.

(b) "Research" means any scientific or technical work involving theoretical analysis, exploration, or experimentation.

(c) "Evaluation activities" means any effort involving the appraisal of a technology, process, product, or policy.

(d) "Technical consulting and management support services" means internal assistance to a component of the NRC in the formulation or administration of its programs, projects, or policies which normally require the contractor to be given access to information which has not been made available to the public or proprietary information. Such services typically include assistance in the preparation of program plans; and preparation of preliminary designs, specifications, or statements of work.

(e) "Contract" means any contract, agreement, or other arrangement with the NRC except as provided in § 20-1.5401(c).

(f) "Contractor" means any person, firm, unincorporated association, joint venture, co-sponsor, partnership, corporation, affiliates thereof, or their successors in interest, including their chief executives, directors, key personnel (identified in the contract), proposed consultants or subcontractors, which is a party to a contract with the NRC.

(g) "Affiliates" means business concerns which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both (41 CFR 1-1.606-1(e)).

(h) "Subcontractor" means any subcontractor of any tier which performs work under a contract with the NRC except subcontracts for supplies

and subcontracts in amounts of \$10,000 or less.

(i) "Prospective contractor" or "offeror" means any person, firm, unincorporated association, joint venture, partnership, corporation, or affiliates thereof, including its chief executive, directors, key personnel (identified in the proposal), proposed consultants, or subcontractors, submitting a bid or proposal, solicited or unsolicited, to the NRC to obtain a contract.

(j) "Potential conflict of interest" means that a factual situation exists that suggests (indicates) that an actual conflict of interest may arise from award of a proposed contract. The term "potential conflict of interest" is used to signify those situations which merit investigation prior to contract award in order to ascertain whether award would give rise to an actual conflict or which must be reported to the contracting officer for investigation if they arise during contract performance.

§ 20-1.5403 Criteria for recognizing contractor organizational conflicts of interest.

(a) General. Two questions will be asked in determining whether actual or potential organizational conflicts of interest exist: (1) Are there conflicting roles which might bias a contractor's judgment in relation to its work for the NRC? (2) May the contractor be given an unfair competitive advantage based on the performance of the contract? The ultimate determination by NRC as to whether organizational conflicts of interest exist will be made in light of common sense and good business judgment based upon the relevant facts disclosed and the work to be performed. While it is difficult to identify and to prescribe in advance a specific method for avoiding all of the various situations or relationships which might involve potential organizational conflicts of interest, NRC personnel will pay particular attention to proposed contractual requirements which call for the rendering of advice, consultation or evaluation activities, or similar activities that lay direct groundwork for the NRC's decisions on regulatory activities, future procurements, and research programs.

(b) Situations or relationships which may give rise to organizational conflicts of interest. (1) The offeror or contractor shall disclose information concerning relationships which may give rise to organizational conflicts of interest under the following circumstances:

(i) Where the offeror or contractor provides advice and recommendations

to the NRC in a technical area in which it is also providing consulting assistance in the same area to any organization regulated by the NRC.

(ii) Where the offeror or contractor provides advice to the NRC on the same or similar matter in which it is also providing assistance to any organization regulated by the NRC.

(iii) Where the offeror or contractor evaluates its own products or services, or the products or services of another entity where the offeror or contractor has been substantially involved in their development or marketing.

(iv) Where the award of a contract would otherwise result in placing the offeror or contractor in a conflicting role in which its judgment may be biased in relation to its work for the NRC or may otherwise result in an unfair competitive advantage for the offeror or contractor.

(2) The contracting officer may request specific information from an offeror or contractor or may require special contract provisions such as provided in § 20-1.5405-2 in the following circumstances:

(i) Where the offeror or contractor prepares specifications which are to be used in competitive procurements of products or services covered by such specifications.

(ii) Where the offeror or contractor prepares plans for specific approaches or methodologies that are to be incorporated into competitive procurements using such approaches or methodologies.

(iii) Where the offeror or contractor is granted access to information not available to the public concerning NRC plans, policies, or programs which could form the basis for a later procurement action.

(iv) Where the offeror or contractor is granted access to proprietary information of its competitors.

(v) Where the award of a contract might otherwise result in placing the offeror or contractor in a conflicting role in which its judgment may be biased in relation to its work for the NRC or may otherwise result in an unfair competitive advantage for the offeror or contractor.

(c) Policy application guidance. The following examples are illustrative only and are not intended to identify and resolve all contractor organizational conflict of interest situations.

(1) Example. The XYZ Corp., in response to a request for proposal (RFP), proposes to undertake certain analyses of a reactor component as called for in the RFP. The XYZ Corp. is one of several companies considered to be technically well qualified. In response to the inquiry in the RFP, the XYZ Corp.

advises that it is currently performing similar analyses for the reactor manufacturer.

Guidance. An NRC contract for that particular work normally would not be awarded to the XYZ Corp. because it would be placed in a position in which its judgment could be biased in relationship to its work for NRC. Since there are other well-qualified companies available, there would be no reason for considering a waiver of the policy.

(2) Example. The ABC Corp., in response to a RFP, proposes to perform certain analyses of a reactor component which are unique to one type of advanced reactor. As is the case with other technically qualified companies responding to the RFP, the ABC Corp. is performing various projects for several different utility clients. None of the ABC Corp. projects have any relationship to the work called for in the RFP. Based on the NRC evaluation, the ABC Corp. is considered to be the best qualified company to perform the work outlined in the RFP.

Guidance. An NRC contract normally could be awarded to the ABC Corp. because no conflict of interest exists which would motivate bias with respect to the work. An appropriate clause would be included in the contract to preclude the ABC Corp. from subsequently contracting for work during the performance of the NRC contract with the private sector which could create a conflict. For example, ABC Corp. would be precluded from the performance of similar work for the company developing the advanced reactor mentioned in the example.

(3) Example. As a result of operating problems in a certain type of commercial nuclear facility, it is imperative that NRC secure specific data on various operational aspects of that type of plant so as to assure adequate safety protection of the public. Only one manufacturer has extensive experience with that type of plant. Consequently, that company is the only one with whom NRC can contract which can develop and conduct the testing programs required to obtain the data in reasonable time. That company has a definite interest in any NRC decisions that might result from the data produced because those decisions affect the reactor's design and thus the company's costs.

Guidance. This situation would place the manufacturer in a role in which its judgment could be biased in relationship to its work for NRC. Since the nature of the work required is vitally important in terms of NRC's responsibilities and no reasonable alternative exists, a waiver

of the policy may be warranted. Any such waiver shall be fully documented and coordinated in accordance with the waiver provisions of this policy with particular attention to the establishment of protective mechanisms to guard against bias.

(4) Example. The ABC Co. submits a proposal for a new system for evaluating a specific reactor component's performance for the purpose of developing standards that are important to the NRC program. The ABC Co. has advised NRC that it intends to sell the new system to industry once its practicability has been demonstrated. Other companies in this business are using older systems for evaluation of the specific reactor component.

Guidance. A contract could be awarded to the ABC Co. provided that the contract stipulates that no information produced under the contract will be used in the contractor's private activities unless such information has been reported to NRC. Information which is reported to NRC by contractors will normally be disseminated by NRC to others so as to preclude an unfair competitive advantage that might otherwise accrue. When NRC furnishes information to the contractor for the performance of contract work, it shall not be used in the contractor's private activities unless such information is generally available to others. Further, the contract will stipulate that the contractor will inform the NRC contracting officer of all situations in which the information developed under the contract is proposed to be used.

(5) Example. The ABC Corp., in response to a RFP proposes to assemble a map showing certain seismological features of the Appalachian fold belt. In accordance with the representation in the RFP and § 20-1.5403(b)(1)(i), ABC Corp. informs the NRC that it is presently doing seismological studies for several utilities in the Eastern United States but none of the sites are within the geographic area contemplated by the NRC study.

Guidance. The contracting officer would normally conclude that award of a contract would not place ABC Corp. in a conflicting role where its judgment might be biased. The work for others clause of § 20-1.5405-1(c) would preclude ABC Corp. from accepting work during the term of the NRC contract which could create a conflict of interest.

(d) Other considerations. (1) The fact that the NRC can identify and later avoid, eliminate, or neutralize any potential organizational conflicts arising

from the performance of a contract is not relevant to a determination of the existence of such conflicts prior to the award of a contract.

(2) It is not relevant that the contractor has the professional reputation of being able to resist temptations which arise from organizational conflicts of interest, or that a follow-on procurement is not involved, or that a contract is awarded on a competitive or a sole source basis.

§ 20-1.5404 Representation.

(a) The following procedures are designed to assist the NRC contracting officer in determining whether situations or relationships exist which may constitute organizational conflicts of interest with respect to a particular offeror or contractor.

(b) Representation procedure. The following organizational conflicts of interest representation provision shall be included in all solicitations and unsolicited proposals for: (1) Evaluation services or activities; (2) technical consulting and management support services; (3) research; and (4) other contractual situations where special organizational conflicts of interest provisions are noted in the solicitation and would be included in the resulting contract. This representation requirement shall also apply to all modifications for additional effort under the "changes" clause. Where, however, a statement of the type required by the organizational conflicts of interest representation provision has previously been submitted with regard to the contract being modified, only an updating of such statement shall be required.

Organizational Conflicts of Interest Representation

I represent to the best of my knowledge and belief that:
The award to _____ of a contract or the modification of an existing contract does () or does not () involve situations or relationships of the type set forth in 41 CFR § 20-1.5403(b)(1).

(c) Instructions to offerors. The following shall be included in all NRC solicitations: (1) If the representation as completed indicates that situations or relationships of the type set forth in 41 CFR 20-1.5403(b)(1) are involved, or the contracting officer otherwise determines that potential organizational conflicts exist, the offeror shall provide a statement in writing which describes in a concise manner all relevant facts bearing on his representation to the contracting officer. If the contracting

officer determines that organizational conflicts exist, the following actions may be taken: (i) Impose appropriate conditions which avoid such conflicts, (ii) disqualify the offeror, or (iii) determine that it is otherwise in the best interest of the United States to seek award of the contract under the waiver provisions of § 20-1.5411.

(2) The refusal to provide the representation required by § 20-1.5404(b) or upon request of the contracting officer the facts required by § 20-1.5404(c), shall result in disqualification of the offeror for award. The nondisclosure or misrepresentation of any relevant interest may also result in the disqualification of the offeror for award; or if such nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. The offeror may also be disqualified from subsequent related NRC contracts and be subject to such other remedial actions provided by law or the resulting contract.

(d) The offeror may, because of actual or potential organizational conflicts of interest, propose to exclude specific kinds of work from the statements of work contained in a RFP unless the RFP specifically prohibits such exclusion. Any such proposed exclusion by an offeror will be considered by the NRC in the evaluation of proposals. If the NRC considers the proposed excluded work to be an essential or integral part of the required work and its exclusion would work to the detriment of the competitive posture of the other offerors, the proposal must be rejected as unacceptable.

(e) The offeror's failure to execute the representation required by paragraph (b) of this section with respect to invitation for bids will be considered to be a minor informality, and the offeror will be permitted to correct the omission.

§ 20-1.5405 Contract clauses

§ 20-1.5405-1 General contract clause

All contracts of the types set forth in § 20-1.5404(b) shall include the following clauses:

(a) *Purpose.* The primary purpose of this clause is to aid in ensuring that the contractor: (1) Is not placed in a conflicting role because of current or planned interest (financial, contractual, organizational, or otherwise) which relate to the work under this contract, and (2) does not obtain an unfair competitive advantage over other parties by virtue of its performance of this contract.

(b) *Scope.* The restrictions described herein shall apply to performance or

participation by the contractor as defined in 41 CFR § 20-1.5402(f) in the activities covered by this clause.

(c) *Work for others.* Notwithstanding any other provision of this contract, during the term of this contract, the contractor agrees to forgo entering into consulting or other contractual arrangements with any firm or organization, the result of which may give rise to a conflict of interest with respect to the work being performed under this contract. The contractor shall ensure that all employees who are employed full time under this contract and employees designated as key personnel, if any, under this contract abide by the provision of this clause. If the contractor believes with respect to itself or any such employee that any proposed consultant or other contractual arrangement with any firm or organization may involve a potential conflict of interest, the contractor shall obtain the written approval of the contracting officer prior to execution of such contractual arrangement.

(d) *Disclosure after award.* (1) The contractor warrants that to the best of its knowledge and belief and except as otherwise set forth in this contract, it does not have any organizational conflicts of interest, as defined in 41 CFR 20-1.5402(a).

(2) The contractor agrees that if after award it discovers organizational conflicts of interest with respect to this contract, it shall make an immediate and full disclosure in writing to the contracting officer. This statement shall include a description of the action which the contractor has taken or proposes to take to avoid or mitigate such conflicts. The NRC may, however, terminate the contract for convenience if it deems such termination to be in the best interests of the government.

(e) *Access to and use of information.* (1) If the contractor in the performance of this contract obtains access to information, such as NRC plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (Pub. L. 93-579), or data which has not been released to the public, the contractor agrees not to: (i) Use such information for any private purpose until the information has been released to the public; (ii) compete for work for the Commission based on such information for a period of six (6) months after either the completion of this contract or the release of such information to the public, whichever is first, (iii) submit an unsolicited proposal to the government based on such information until one year after the release of such information to the

public, or (iv) release the information without prior written approval by the contracting officer unless such information has previously been released to the public by the NRC.

(2) In addition, the contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (Pub. L. 93-579), or other confidential or privileged technical, business, or financial information under this contract, the contractor shall treat such information in accordance with restrictions placed on use of the information.

(3) The contractor shall have, subject to patent and security provisions of this contract, the right to use technical data it produces under this contract for private purposes provided that all requirements of this contract have been met.

(f) *Subcontracts.* Except as provided in 41 CFR 20-1.5402(h), the contractor shall include this clause, including this paragraph, in subcontracts of any tier. The terms "contract," "contractor," and "contracting officer," shall be appropriately modified to preserve the government's rights.

(g) *Remedies.* For breach of any of the above proscriptions or for intentional nondisclosure or misrepresentation of any relevant interest required to be disclosed concerning this contract or for such erroneous representations as necessarily imply bad faith, the government may terminate the contract for default, disqualify the contractor from subsequent contractual efforts, and pursue other remedies as may be permitted by law or this contract.

(h) *Waiver.* A request for waiver under this clause shall be directed in writing through the contracting officer to the Executive Director for Operations (EDO) in accordance with the procedures outlined in § 20-1.5411.

20-1.5405-2 Special contract provisions.

(a) If it is determined from the nature of the proposed contract that organizational conflicts of interest exist, the contracting officer may determine that such conflict can be avoided or after obtaining a waiver in accordance with § 20-1.5411, neutralized through the use of an appropriate special contract provision. If appropriate, the offeror may negotiate the terms and conditions of these clauses, including the extent and time period of any such restriction. These provisions include but are not limited to:

(1) Hardware exclusion clauses which prohibit the acceptance of production contracts following a related

nonproduction contract previously performed by the contractor;

(2) Software exclusion clauses;

(3) Clauses which require the contractor (and certain of his key personnel) to avoid certain organizational conflicts of interest; and

(4) Clauses which provide for protection of confidential data and guard against its unauthorized use.

(b) The following additional contract clause may be included as section (i) in the clause set forth in § 20-1.5405-1 when it is determined that award of a follow-on contract would constitute an organizational conflict of interest.

(i) *Follow-on effort.* (1) The contractor shall be ineligible to participate in NRC contracts, subcontracts, or proposals therefor (solicited or unsolicited) which stem directly from the contractor's performance of work under this contract. Furthermore, unless so directed in writing by the contracting officer, the contractor shall not perform any technical consulting or management support services work or evaluation activities under this contract on any of its products or services or the products or services of another firm if the contractor has been substantially involved in the development or marketing of such products or services.

(2) If the contractor under this contract prepares a complete or essentially complete statement of work or specifications, the contractor shall be ineligible to perform or participate in the initial contractual effort which is based on such statement of work or specifications. The contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the contracting officer, in which case the restriction in this subparagraph shall not apply.

(3) Nothing in this paragraph shall preclude the contractor from offering or selling its standard commercial items to the government.

§ 20-1.5406 Evaluation, findings, and contract award.

The contracting officer will evaluate all relevant facts submitted by an offeror pursuant to the representation requirements of § 20-1.5404(b) and other relevant information. After evaluating this information against the criteria of § 20-1.5403, a finding will be made by the contracting officer whether organizational conflicts of interest exist with respect to a particular offeror. If it has been determined that conflicts of interest exist, then the contracting officer shall either:

(a) Disqualify the offeror from award,

(b) Avoid or eliminate such conflicts by appropriate measures; or

(c) Award the contract under the waiver provision of § 20-1.5411.

§ 20-1.5407 Conflicts identified after award.

If potential organizational conflicts of interest are identified after award with respect to a particular contractor, the contracting officer determines that such conflicts do, in fact, exist and that it would not be in the best interests of the government to terminate the contract as provided in the clauses required by § 20-1.5405, the contracting officer will take every reasonable action to avoid, eliminate, or, after obtaining a waiver in accordance with § 20-1.5411, neutralize the effects of the identified conflict.

§ 20-1.5408 [Reserved]

§ 20-1.5409 [Reserved]

§ 20-1.5410 Subcontracts.

The contracting officer shall require offerors and contractors to submit a representation statement in accordance with § 20-1.5404(b) from subcontractors and consultants. The contracting officer shall require the contractor to include contract clauses in accordance with § 20-1.5405 in consultant agreements or subcontracts involving performance of work under a prime contract covered by this subsection.

§ 20-1.5411 Waiver

(a) In the first instance, determination with respect to the need to seek a waiver for specific contract awards shall be made by the contracting officer with the advice and concurrence of the program office director and the Office of Executive Legal Director. Upon the recommendation of the contracting officer, and after consultation with the Office of the General Counsel, the EDO may waive the policy in specific cases if he determines that it is in the best interest of the United States to do so.

(b) Such action shall be strictly limited to those situations in which: (1) The work to be performed under contract is vital to the NRC program; (2) the work cannot be satisfactorily performed except by a contractor whose interests give rise to a question of conflict of interest; and (3) contractual and/or technical review and supervision methods can be employed by NRC to neutralize the conflict. For any such waivers, the justification and approval documents shall be placed in the Public Document Room.

§ 20-1.5412 Remedies.

In addition to such other remedies as may be permitted by law or contract for a breach of the restrictions in this subpart or for any intentional misrepresentation or intentional nondisclosure of any relevant interest required to be provided for this section, the NRC may debar the contractor from subsequent NRC contracts.

Dated at Washington, D.C. this 27th day of March 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,
Secretary of the Commission.

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INTERSTATE COMMERCE COMMISSION**49 CFR Part 1033****Car Service; Missouri Pacific Railroad Co. Authorized To Operate Over Tracks of the Atchison, Topeka, and Santa Fe Co.**

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 4 to Service Order No. 1269.

SUMMARY: The Missouri Pacific's line between Winfield, Kansas, and Arkansas City, Kansas, has been damaged by flooding and is inoperable. Service Order No. 1269 authorizes the Missouri Pacific to operate over parallel tracks of the Atchison, Topeka and Santa Fe between those points in order to provide continued railroad service to shippers served by the undamaged portions of this line. Service Order No. 1269 is published in full in volume 42 of the *Federal Register* at page 34883. Amendment No. 4 extends this order until modified or vacated by order of this Commission.

DATES: Effective 11:59 p.m., March 31, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided March 26, 1979.

Upon further consideration of Service Order No. 1269 (42 FR 34883, 54294; 43 FR 14476 and 44586), and good cause appearing therefor:

It is ordered, that Service Order No. 1269, § 1033.1269 **MISSOURI PACIFIC RAILROAD COMPANY AUTHORIZED**

TO OPERATE OVER TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY is amended by substituting the following paragraph (c) for paragraph (c) thereof:

(c) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[S.O. No. 1269, Amdt. No. 4]

[FR Doc. 79-9846 Filed 3-30-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033**Car Service; The Chesapeake and Ohio Railway To Operate Over Tracks of Consolidated Rail Corp.**

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 3 to Service Order No. 1290.

SUMMARY: Service Order No. 1290 authorizes the Chesapeake and Ohio Railway to operate over tracks of Consolidated Rail Corporation between Hallett, Ohio, and Walbridge, Ohio, to avoid congestion on the tracks of the Toledo Terminal Railroad Company formerly used by the Chesapeake and Ohio to traverse this territory. Service Order No. 1290 is published in full in volume 42 of the *Federal Register* at page 63890. Amendment No. 3 to Service Order No. 1290 extends this order until modified or vacated by order of this Commission.

DATES: Effective 11:59 p.m., March 31, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:

J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided March 27, 1979.

Upon further consideration of Service Order No. 1290 (42 FR 63890, 43 FR 14021 and 45868), and good cause appearing therefor:

It is ordered, that Service Order No. 1290, § 1033.1290 **The Chesapeake and Ohio Railway Company Authorized To Operate Over Tracks of Consolidated Rail Corporation** be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[S.O. No. 1290; Amdt. No. 3]

[FR Doc. 79-10028 Filed 3-30-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033**Car Service; Lenawee County Railroad Co., Inc., To Operate Over Tracks of Consolidated Rail Corporation**

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 5 to Service Order No. 1321.

SUMMARY: The Lenawee County Railroad operates two separate lines of railroad in the vicinity of Grosvenor, Michigan. Service Order No. 1321 authorizes the Lenawee County Railroad to operate over 3.6 miles of a line of the

Consolidated Rail Corporation between Lenawee Junction, Michigan, and Grosvenor, Michigan, which permits their single locomotive to serve both line segments. The order is printed in full in the **Federal Register** Volume 43 at page 16341. Amendment No. 5 extends the order until modified or vacated by order of this Commission.

DATES: Effective 11:59 p.m., March 31, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:

J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided March 27, 1979.

Upon further consideration of Service Order No. 1321 (43 FR 16341, 34150, 45866, 59383, and 44 FR 877) and good cause appearing therefor:

It is ordered, that Service Order No. 1321, § 1033.1321 *Lenawee County Railroad Company, Inc., Authorized to Operate Over Tracks of Consolidated Rail Corporation* is amended by substituting the following paragraph (d) for paragraph (d) thereof:

* * * * *

(d) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[S.O. No. 1321; Amdt. No. 5]

[FR Doc. 79-10029 Filed 3-30-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

Car Service; Chicago, Rock Island & Pacific Railroad Co. Authorized To Operate Over Tracks of Burlington Northern, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 2 to Service Order 1324.

SUMMARY: The line of the Chicago, Rock Island and Pacific Railroad between Eldon, Iowa, and Keokuk, Iowa has become inoperable because of track conditions. An alternative route between Keokuk and other stations on the Chicago, Rock Island and Pacific exists by use of the tracks of the Burlington Northern between Keokuk and Burlington, Iowa. Service Order No. 1324 authorizes the Chicago, Rock Island and Pacific to operate over these tracks of the Burlington Northern in order to provide continued railroad service to shippers served by the Chicago, Rock Island and Pacific Railroad at Keokuk. Service Order No. 1324 is published in full in volume 43 of the Federal Register at page 19395. Amendment No. 2 extends the order until modified or vacated by order of this Commission.

DATES: Effective 11:59 p.m., March 31, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided March 27, 1979.

Upon further consideration of Service Order No. 1324 (43 FR 19395, and 45865) and good cause appearing therefor:

It is ordered, That Service Order No. 1324, § 1033.1324 *Chicago, Rock Island and Pacific Railroad Company Authorized To Operate Over Tracks of Burlington Northern, Inc.*, is amended by substituting the following paragraph (e) for paragraph (e) thereof:

* * * * *

(e) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads

subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[S.O. No. 1324, Amdt. No. 2]

[FR Doc. 79-10030 Filed 3-30-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

Car Service; Chicago, Rock Island & Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago and Northwestern Transportation Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order Amendment No. 2 to Service Order No. 1329.

SUMMARY: Because of damage to a bridge on its line the Chicago and North Western Transportation Company is unable to operate to or from Livermore, Iowa. Several shippers served by that line requires continued rail service. Service Order No. 1329 authorizes the Chicago, Rock Island and Pacific Railroad to operate over tracks of the Chicago and North Western Transportation Company in Livermore in order to provide urgently needed railroad service to these shippers. Service Order No. 1329 is published in full in volume 43 of the Federal Register at page 26581. Amendment No. 2 extends this order until modified or vacated by order of this Commission.

DATES: Effective 11:59 p.m., March 31, 1979. Expires when modified or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT:

J. Kenneth Carter, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275-7840, Telex 89-2742.

Decided March 27, 1979.

Upon further consideration of Service Order No. 1329 (43 FR 26581, and 45868) and good cause appearing therefor:

It is ordered, that Service Order No. 1329, § 1033.1329 *Chicago, Rock Island & Pacific Railroad Company Authorized*

To Operate Over Tracks of Chicago & North Western Transportation Company is amended by substituting the following paragraph (e) for paragraph (e) thereof:

* * * * *

(e) *Expiration date.* The provisions of this order shall remain in effect until modified or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 31, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

A copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board,
members Joel E. Burns, Robert S. Turkington
and John R. Michael.

H. G. Homme, Jr.,
Secretary.

[S.O. No. 1329; Amdt. No. 2]

[FR Doc. 79-10031 Filed 3-30-79; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 44, No. 64

Monday, April 2, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

Boeing Model 707-300/-400 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of time for comments on NPRM.

SUMMARY: A Notice of Proposed Rule Making (NPRM) was published February 5, 1979, in 44 FR 6929, proposing an Airworthiness Directive which would require inspections and/or modification of the Boeing 707-300/-400 horizontal stabilizer rear spar upper and lower chords for stress corrosion cracks. The Federal Aviation Administration (FAA) was recently informed that the Air Transport Association of America (ATA) and the Boeing Company are currently developing a program which will provide termination action for the proposed inspections at a lower cost. To permit evaluation and comments based on this new development, the FAA has determined that the period for comments should be extended.

DATES: The new deadline for comments is extended to April 9, 1979.

ADDRESSES: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attn: Airworthiness Rules Docket, Docket No. 79-NW-1-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108; telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Since issuance of the NPRM (44 FR 6929), which solicits comments on an inspection program for detecting stress corrosion cracks in the horizontal

stabilizer rear spar chords of 707-300/-400 airplanes, representatives of several airlines, the ATA, and the Boeing Company met with the FAA on March 13, 1979. At that meeting, an alternate plan, modifying stabilizers by January 1, 1981, was proposed by the users so as to provide terminating action for continuous inspections. It will take additional time for the proposal to be developed fully, since cost data is still being obtained and for the proposal to be reviewed by the FAA. Based on these factors, the ATA has requested that the closing date for comments be extended.

The comment period specified in the NPRM expires on March 15, 1979. The FAA has determined that sufficient justification exists to extend the comment period.

Extension of Comment Period

Accordingly, the deadline for comments on the NPRM in Docket No. 79-NW-1-AD is hereby extended to April 9, 1979.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

Note: The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Issued in Seattle, Wash., on March 22, 1979.

C. B. Walk, Jr.,
Director, Northwest Region.

[Docket No. 79-NW-1-AD]

[FR Doc. 79-9936 Filed 3-30-79; 8:45 am]

BILLING CODE 4910-13-M

[14 CFR Part 71]

Proposed Alteration of Transition Area Brownwood, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of the action being taken is to propose alteration of the transition area at Brownwood, Tex. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Brownwood Municipal

Airport. The circumstance which created the need for the action is the establishment of a partial instrument landing system (ILSP) to Runway 17.

DATES: Comments must be received by May 2, 1979.

ADDRESS: Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Region Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Kenneth L. Stephenson, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: Subpart G § 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Alteration of the transition area at Brownwood, Tex., will necessitate an amendment to this subpart.

Comments Invited

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal

contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this MPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Brownwood, Tex. The FAA believes this action will enhance IFR operations at the Brownwood Municipal Airport by providing additional controlled airspace for aircraft executing proposed instrument approach procedures using the proposed ILSP to Runway 17. Subpart G of Part 71 was republished in the *Federal Register* on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Brownwood, Tex., transition area to read as follows:

Brownwood, Tex.

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of the Brownwood Municipal Airport (latitude 31°47'40" N., longitude 98°57'25" W.)

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Note: The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 3, 1978)

Issued in Fort Worth, Tex., on March 20, 1979.

Henry N. Stewart,
Acting Director, Southwest Region.

[Airspace Docket No. 79-ASW-6]

[FR Doc. 79-9935 Filed 3-30-79; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Chapter V]

Semiannual agenda of significant regulations

National Aeronautics and Space Administration
Semiannual Agenda of Significant Regulations

AGENCY: National Aeronautics and Space Administration.

ACTION: Semiannual agenda of significant regulations.

SUMMARY: This semiannual agenda describes the significant regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of a knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

EFFECTIVE DATE: April 2, 1979.

ADDRESS: Director, Information Systems Division (Code NSM-12), Office of Management Operations, NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Joan E. Cavanaugh, 202-755-3219.

SUPPLEMENTARY INFORMATION:

Executive Order 12044, "Improving Government Regulations," and NASA Management Instruction 1410.10B, "Federal Register: Delegation of Authority and Requirements for Publication of NASA Documents," require that a semiannual agenda of significant regulations under development and review be published in the *Federal Register* on the first Monday in April and the first Monday in September.

Robert A. Froesch,
Administrator.

Title	Description	Legal Citation	Status	Contact	Reg. analysis required
STS Services for Users of Small Self-Contained Payloads ¹	Describes the policy for services provided by NASA to users of small self-contained payloads and the implementation of the policy.	42 U.S.C. 2473	Proposed Rule	Donna J. Skidmore, Manager, Small Self-Contained Payloads Program, Office of Space Transportation Systems, NASA Headquarters, Washington, D.C. 20546, 202-755-2427.	No

¹ This was the only item listed in NASA's Semiannual Agenda which appeared in the *Federal Register*, Vol. 43, No. 191—Monday, October 2, 1978. This regulation is undergoing further review and it is anticipated that it will be published within the next six months.

[Notice 79-34]

[FR Doc. 79-9540 Filed 3-30-79; 8:45 am]

BILLING CODE 7510-01-M

TENNESSEE VALLEY AUTHORITY

[18 CFR Ch. II]

Semiannual Agenda of Significant Regulations; Rescheduled Publication

AGENCY: Tennessee Valley Authority.

ACTION: Semiannual agenda; notice of rescheduled publication.

SUMMARY: The Tennessee Valley Authority (TVA) has rescheduled publication of the second notice of semiannual agenda of significant regulations developed in accordance

with Executive Order No. 12044 from April 2, 1979, to April 26, 1979.

DATE: Rescheduled publication—April 26, 1979.

ADDRESS: Written requests for information concerning the rescheduled publication may be obtained from Lynn G. Morehouse, Assistant General Counsel, Tennessee Valley Authority,

400 Commerce Avenue, E10D76,
Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT:

Lynn G. Morehous (615) 632-3081.

Dated: March 23, 1979.

Leon E. Ring,

General Manager.

[FR Doc. 79-9651 Filed 3-30-79; 8:45 am]

BILLING CODE 8120-01-M

**GENERAL SERVICES
ADMINISTRATION**

Federal Preparedness Agency

[32A CFR Part 134]

**Preservation of the Mobilization Base
Through the Placement of Procurement and
Facilities in Labor Surplus Areas**

AGENCY: Federal Preparedness Agency,
GSA.

ACTION: Proposed rule.

SUMMARY: Defense Manpower Policy (DMP)-4A (Part 134) is revised to recognize Executive Order 12073 (43 FR 36873, August 18, 1978) as the successor policy to DMP-4, as provided for in Pub. L. 95-89, and to preserve the mobilization aspects of the labor surplus area program. Since this policy is consonant with the intent of EO 12073, which covers the socioeconomic aspects of the labor surplus area program, Federal departments and agencies, in carrying out this policy, shall be guided by that Executive order, as well as the policy direction of the Office of Federal Procurement Policy and implementing regulations. Because of the revision to DMP-4A, the Surplus Manpower Committee is abolished.

DATE: Comments must be received on or before May 2, 1979.

ADDRESSES: Comments should be addressed to: General Services Administration (E), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT:

James J. Delaney, Federal Preparedness Agency (202-566-0760).

SUPPLEMENTARY INFORMATION: The Director of the Federal Preparedness Agency has determined that there is no need to prepare a regulatory analysis as discussed in Executive Order 12044, Improving Government Regulations. This rule is not expected to have any economic or inflationary impact. Therefore, the public is being given 30 days to comment. It is proposed to amend 32A CFR by deleting the existing Part 134 and substituting the following revised Part 134 to read as follows:

Defense Manpower Policy DMP-4B

**PART 134—PRESERVATION OF THE
MOBILIZATION BASE THROUGH THE
PLACEMENT OF PROCUREMENT AND
FACILITIES IN LABOR SURPLUS AREAS**

1. *Purpose.* Success of the national defense program depends upon efficient use of all our resources, including labor force and production facilities, which are preserved through practice of the skills of both management and labor. A primary aim of Federal manpower policy is to encourage full utilization of existing production facilities and workers in preference to creating new plants or moving workers, thus assisting in the maintenance of economic balance and employment stability. When large numbers of workers move to already labor surplus areas, heavy burdens are placed on community facilities, such as schools, hospitals, housing, transportation, and utilities. On the other hand, when unemployment develops in certain areas, unemployment costs increase the total cost to the Government, and plants, tools, and workers' skills remain idle and unable to contribute to our national defense program. Consequently, it is the purpose of Defense Manpower Policy No. 4B to direct attention to the potentialities of labor surplus areas for the award of appropriate procurement contracts and grants, and for the locating of new plants or facilities.

2. *Cancellation.* This policy cancels and supersedes Defense Manpower Policy No. 4A.

3. *Authority.* Pursuant to the authority vested in the Administrator of General Services by Executive Order 10480, as amended, Executive Order 11051, as amended, and Executive Order 11725, Defense Manpower Policy No. 4B is hereby issued.

4. *Policy.* It is the policy of the Federal Government to award appropriate contracts and grants to eligible labor surplus area concerns, to place production facilities in labor surplus areas, and to make the best use of our natural, industrial and labor resources in order to achieve the following objectives:

(a) To preserve management and employee skills necessary to the fulfillment of Government contracts and purchases;

(b) To maintain productive facilities;

(c) To improve utilization of the Nation's total economic potential by making use of the labor force resources of each area; and

(d) To help ensure timely delivery of required goods and services and to promote readiness for mobilization by

locating procurement where the needed labor force and facilities are fully available.

This policy is consonant with the intent of Executive Order 12073, the successor policy to DMP-4 as provided for in Public Law 95-89. In carrying out this policy, Federal departments and agencies shall be guided by Executive Order 12073, the policy direction of the Office of Federal Procurement Policy and implementing regulations.

5. *Scope and applicability.* The provisions of this policy apply to all Federal departments and agencies, except as otherwise prohibited by law.

6. *Special consideration.* When an entire industry that sells a significant proportion of its production to the Government is generally depressed or has a significant proportion of its production, manufacturing and service facilities located in a labor surplus area, the Director, Federal Preparedness Agency, GSA, or successor in function, after notice to and hearing of interested parties, will give consideration to appropriate measures applicable to the entire industry.

7. *Production facilities.* All Federal departments and agencies shall give consideration to labor surplus areas in the selection of sites for Government-financed production facilities, including expansion, to the extent that such selection is consistent with existing law and essential economic and strategic factors that must also be taken into account.

Dated: March 19, 1979.

Joseph A. Mitchell,
Director, Federal Preparedness Agency.

[DMP-4B]

[FR Doc. 79-9616 Filed 3-30-79; 8:45 am]

BILLING CODE 6820-29-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Ch. I]

Colregs Demarcation Lines

AGENCY: Coast Guard, DOT.

ACTION: Notice of review of regulations.

SUMMARY: On July 11, 1977, the Coast Guard published regulations (42 FR 35782) describing where the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), 28 U.S.T. 3459, T.I.A.S. 8587, would apply in waters adjacent to the United States. Upon review, it appears that certain demarcation lines established by

those regulations are inconsistent with the international treaty.

The demarcation lines were drawn solely to delineate those waters upon which mariners must comply with the 72 COLREGS and those waters upon which mariners must comply with the Navigational Rules for Harbors, Rivers, and Inland Waters. The Coast Guard is currently reviewing these regulations to identify any demarcation lines that are inconsistent with the treaty. Upon completion of the review appropriate rulemaking action will be initiated. The regulations do not constitute the position of the Coast Guard on the limits of the United States inland waters, territorial seas, or high seas.

FOR FURTHER INFORMATION CONTACT: Lieutenant (jg) George W. Molessa, Jr., Office of Marine Environment and Systems (G-WLE-4/73), Room 7315, Department of Transportation, Nassif Building, Washington, DC 20590, (202) 426-4958.

March 23, 1979.

F. P. Schubert,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine
Environment and Systems.

[CGD 79-043]

[FR Doc. 79-10230 Filed 3-30-79; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

**Drawbridge Operation Regulations; Beach
Thorofare, Ocean City, N.J.**

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the New Jersey Department of Transportation, the Coast Guard is considering revising the regulations governing the operation of the drawbridge across Beach Thorofare, Ocean City, N.J. to provide periods that will be more restrictive to vessel passages during periods of peak vehicular traffic on weekends and holidays from Memorial Day through Labor Day. This action may accommodate the needs of vehicular traffic while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before May 6, 1979.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Third Coast Guard District, Governors Island, N.Y. 10004.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Third Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Mary Ann McCabe, Project Attorney, Office of Chief Counsel.

Discussion of the Proposed Regulations

This proposal is being made in an effort to relieve vehicular traffic during the Memorial Day through Labor Day period when it is at its peak. The Coast Guard is requesting comments from interested and affected parties regarding this proposal.

In consideration of the foregoing, it is proposed that Part 117 of the Title 33 of the Code of Federal Regulations be amended by adding a new § 117.220(q) immediately after § 117.220(p) to read as follows:

§ 117.220 New Jersey Intracoastal Waterway and tributaries; bridges.

(q) The draw of the Route 52 (Ninth Street) bridge across Beach Thorofare at Ocean City shall open on signal except that from Memorial Day through Labor Day from 11 a.m. to 5 p.m. on Saturdays, Sundays and holidays, the draw need open only on the hour and half hour if any vessels are waiting to pass. However, the draw shall open on signal at any time for public vessels of the United States, vessels in distress, or for vessels which have another vessel in tow.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: March 27, 1979.

J. B. Hayes,
Admiral, U.S. Coast Guard Commandant.

[CGD 79-012]

[FR Doc. 79-10033 Filed 3-30-79; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

Proposed Approval of an Administrative Order Issued by the Georgia Department of Natural Resources Environmental Protection Division to Peachtree Generating Corp.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an Administrative Order issued by the Georgia Environmental Protection Division, Department of Natural Resources to Peachtree Generating Corporation. The Order requires Peachtree Generating Corporation to bring air emissions from its No. 1 combination boiler and No. 2 recovery boiler in Richmond County, Georgia into compliance with air pollution control regulations contained in the federally approved Georgia State Implementation Plan (SIP) by July 1, 1979. Because the Order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before May 2, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

William Vosbell, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30308, telephone (404)881-4253.

SUPPLEMENTARY INFORMATION:

Peachtree Generating Corporation operates No. 2 recovery boiler and No. 1 combination boiler at its facility in Richmond County, Georgia. The Order under consideration addresses particulate emissions from manufacturing processes and fuel burning equipment, respectively. The emissions are subject to Georgia's Rules and Regulations for Air Quality Control Section 391-3-1-.02(2)(e)1(ii) and 391-3-1-.02(2)(d)1(ii), respectively, which is part of the federally approved Georgia State Implementation Plan. The Order requires final compliance with particulate emissions for the No. 1 combination boiler by July 1, 1979, and compliance for the No. 2 recovery boiler by April 1, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

No. 1 Combination Boiler:

Completed—The Company shall apply for a construction permit and place an order for any equipment.

February 1, 1979—The Company shall begin the permitted construction.

May 1, 1979—The Company shall complete the permitted construction.

June 1, 1979—The Company shall conduct a particulate emission compliance test and shall submit a written report of the results within thirty (30) days of such testing.

July 1, 1979—The Company shall be in full compliance with the Rules and Regulations for Air Quality Control, as demonstrated by a valid particulate emission compliance test.

No. 2 Recovery Boiler:

Completed—The Company shall submit a control plan to install an electrostatic precipitator. The Company shall apply for a construction permit. The Company shall begin the permitted construction.

January 31, 1979—The Company shall complete the permitted construction.

March 1, 1979—The Company shall conduct a particulate emission compliance test and shall submit a written report of the results of this test within thirty (30) days of the completion of testing. The test methods and procedures must be approved.

April 1, 1979—The Company shall be in full compliance with the Rules and Regulations for Air Quality Control for particulate emissions from manufacturing processes, as demonstrated by a valid particulate emission compliance test.

The Order under consideration addresses particulate emissions from manufacturing processes and fuel burning equipment causing pollution which is subject to Georgia's Rules and Regulations for Air Quality Control

Section 391-3-1-.02(2)(e)1(ii) and 391-3-1-.02(2)(d)1(ii), respectively. These regulations limit the emissions of particulate and are part of the federally approved Georgia State Implementation Plan. The Order requires final compliance with the regulation by July 1, 1979, through the implementation of a schedule for the construction or installation of control equipment.

The source has consented to the terms of the Order and has agreed to meet the Order's increments during the period of this informal rulemaking. The source is required to submit monthly reports by the 10th day of the month indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said milestones, Peachtree Generating Corporation shall immediately notify the Georgia Environmental Protection Division, Department of Natural Resources, in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, Peachtree Generating Corporation shall submit, no later than ten days after the deadline for completing each milestone required by the above schedule certification to Robert H. Collom, Jr., whether or not such milestone has been met.

As an interim control measure, the pressure loss across the No. 2 recovery boiler scrubber shall not be less than 20 inches of water and the flow rate of scrubbing liquid to the scrubber shall not be less than 1300 gallons per minute. Also, the bark firing rate to the No. 1 combination boiler shall not exceed 50,000 pounds per hour.

Because this Order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable state air pollution control regulation(s), it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation(s) covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Georgia SIP. Compliance with the

proposed Order will not exempt the company from the requirements comments contained in any subsequent revision to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

Dated: March 22, 1979.

John C. White,

Regional Administrator, Region IV.

[FRL 1088-8; Docket No. DCO-153]

[FR Doc. 79-10008 Filed 3-30-79; 8:45 am]

BILLING CODE 6560-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

Delayed Compliance Order; Proposed Approval of an Administrative Order Issued by the Mississippi Air and Water Pollution Control Commission to St. Regis Paper Co.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an administrative order issued by the Mississippi Air and Water Pollution Control Commission to the St. Regis Paper Company, Ferguson Mill. The Order requires St. Regis Paper Company, Ferguson Mill, to bring air emissions from its gas/oil and bark boiler (combination boiler) in Monticello, Mississippi, into compliance with air pollution control regulations contained in the federally approved Mississippi State Implementation Plan (SIP) by July 1, 1979. Because the order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a delayed compliance order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed

approval of the order as a delayed compliance order.

DATE: Written comments must be received on or before May 2, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: G. Vinson Hellwig, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308, Telephone Number: (404) 881-4298.

SUPPLEMENTARY INFORMATION: St. Regis Paper Company operates a pulp and paper mill in Monticello, Lawrence County, Mississippi. The order under consideration addresses emissions from the combination gas/oil and bark fired boiler, which is subject to Mississippi Air Pollution Control Regulation APC-S-1, Section 3, Paragraph 4, Sub-paragraph (b). This regulation limits the emissions of particulate matter from combination fired boilers, and is part of the federally approved Mississippi State Implementation Plan. The order requires final compliance with the regulation by July 1, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

- (1) Place on order all equipment needed to implement the previously submitted emissions control plan by September 30, 1978.
- (2) Begin construction of devices to implement the control plan by January 15, 1979.
- (3) Show by applicable testing that the combination boiler at the Ferguson Mill meets all applicable state emission limits by July 1, 1979.

The source has consented to the terms of the Order and has agreed to meet the Order's increments during the period of this informal rulemaking.

The source is required to submit monthly reports by the 5th day of the month indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said milestones, the St. Regis Paper Company shall immediately notify the Mississippi Air and Water Pollution Control Commission in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, the St. Regis Paper Company shall submit, no later than five days after the deadline for completing each milestone required by

the above schedule, certification to the Executive Director, Mississippi Air and Water Pollution Control Commission, whether or not such milestone has been met.

As an interim control measure, visible emissions from the St. Regis Paper Company shall not exceed a one and one-half hour average opacity of 60% prior to the attainment of the last milestone.

Because this Order has been issued to a major source of particulate matter emissions and permits a delay in compliance with the applicable state air pollution control regulation[s], it must be approved by EPA before it becomes effective as a delayed compliance order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced order satisfies these legal requirements.

If the submitted administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulation[s] covered by the order during the period the order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Mississippi SIP. Compliance with the proposed order will not exempt the company from complying with applicable requirements contained in any subsequent revisions to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the *Federal Register* the Agency's final action on the Order in 40 CFR Part 65.

(42 U.S.C. 7413, 7601)

Dated: March 23, 1979.

John C. White,
Regional Administrator, Region IV.

[FRL 1088-4; Docket No. DCO-78-59; FRL 1088-4]

[FR Doc. 79-10012 Filed 3-30-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 65]

Delayed Compliance Orders; Proposed Approval of an Administrative Order Issued by the Georgia Department of Natural Resources Environmental Protection Division Owens-Illinois Inc.

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve an Administrative Order (No. EPD-AQC-161) issued by the Georgia Department of Natural Resources, Environmental Protection Division, to Owens-Illinois Incorporated. The Order requires Owens-Illinois Incorporated to bring air emissions from its C.E. No. 2 and Riley boiler in Clyattville, Georgia into compliance with air pollution control regulations contained in the federally approved Georgia State Implementation Plan (SIP) by June 30, 1979. Because the Order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the administrative order must be approved by EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before May 2, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street N.E., Atlanta, Georgia 30308. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: William Voshell, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street N.E., Atlanta, Georgia 30308, Telephone Number: (404) 881-4253.

SUPPLEMENTARY INFORMATION: Owens-Illinois, Incorporated, operates two bark-fired power boilers at its facility at Clyattville, Georgia. The Order under consideration addresses particulate emissions from fuel-burning equipment and control of visible emissions. These emissions are subject to Georgia's Rules

and Regulations for Air Quality Control which are part of the federally approved Georgia Implementation Plan. The Order requires final compliance by the Company's Riley boiler with Georgia Rules and Regulations Section 391-3-1.02(2)(d), dealing with control of particulate emissions from fuel-burning equipment, by June 30, 1979. The Order also requires final compliance by the C.E. No. 2 and Riley boilers with Georgia's Rules and Regulations Section 391-3-1.02(2)(b), dealing with the control of visible smoke emissions, by June 30, 1979. Final Compliance shall be obtained through the implementation of the following schedule for the construction or installation of control equipment:

Completed—Submitted a control plan to install a wet venturi scrubber system on the C.E. No. 2 and Riley boilers' combined exhaust.
 Completed—Applied for and received a construction permit.
 Completed—Place orders for all necessary equipment or materials.
 Completed—Install continuous opacity monitoring systems on the C.E. No. 2 and Riley boilers exhaust stacks.
 January 30, 1979—Submit to EPD the results of certification tests for the opacity monitoring systems required to be installed in item number 4 of this schedule.
 March 15, 1979—Begin construction.
 May 31, 1979—Complete construction.
 June 20, 1979—Conduct particulate emission compliance tests for the C.E. No. 2 and Riley boilers with written reports of the results submitted to EPD by June 30, 1979.
 June 30, 1979—Full compliance with Rules and Regulations for Air Quality Control Section 391-3-1-.02(2)(d), fuel burning equipment, as demonstrated by valid particulate emission compliance tests.

The Order under consideration addresses visible smoke and particulate emissions from the C.E. No. 2 and Riley boiler causing pollution which are subject to Rules and Regulations for Air Quality Control of the State of Georgia. Specifically, Regulation 391-3-1-.02(2)(a) and Regulation 391-3-1-.02(2)(b). These regulations limit the emissions of particulate and visible smoke emissions and are part of the federally approved Georgia State Implementation Plan. The Order requires final compliance with the regulation by June 30, 1979, through the implementation of a schedule for the construction or installation of control equipment.

The source has consented to the terms of the Order and has agreed to meet the Order's increments during the period of this informal rulemaking. The source is required to submit monthly reports by the 10th day of the month indicating progress toward each milestone in the

schedule of compliance. If any delay is anticipated in meeting said milestones, Owens-Illinois Incorporated shall immediately notify the Georgia Environmental Protection Division, Department of Natural Resources, in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, Owens-Illinois Incorporated shall submit, no later than ten days after the deadline for completing each milestone required by the above schedule certification to Robert H. Collom, Jr., Whether or not such milestone has been met.

As an interim control measure, the boilers shall not exceed 50% opacity as defined by EPA Method 9. Also, the source has agreed to firing the Riley boiler with a minimum of 20% of the total heat input being derived from number 6 fuel oil (based on a 24-hour average).

Because this Order has been issued to a major source of visible smoke and particulate emissions and permits a delay in compliance with the applicable state air pollution control regulations, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Georgia SIP. Compliance with the proposed Order will not exempt the company from the requirements contained in any subsequent revision to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

AUTHORITY: 42 U.S.C. 7413, 7601.

Dated: March 22, 1979.

John C. White,
Regional Administrator, Region IV.

[FRL 1088-6; Docket No. DCO-161; FRL 1088-6]
[FR Doc. 79-10010 Filed 3-30-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Part 65]

Proposed Approval of an Administrative Order Issued by the Georgia Department of Natural Resources Environmental Protection Division to Union Camp Corporation

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: EPA proposes to approve an Administrative Order issued by the Georgia Environmental Protection Division to Union Camp Corporation. The Order requires Union Camp Corporation to bring air emissions from its woodwaste boiler in Montgomery County, Georgia into compliance with air pollution control regulations contained in the federally approved Georgia State Implementation Plan (SIP) by March 16, 1979. Because the Order has been issued to a major source of air pollution and permits a delay in compliance with provisions of the SIP, the Administrative Order must be approved by EPA before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by EPA, the order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before May 2, 1979.

ADDRESSES: Comments should be submitted to Director, Enforcement Division, EPA, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: William Voshell, Air Enforcement Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308. Telephone number: (404) 881-4253.

SUPPLEMENTARY INFORMATION: Union Camp Corporation's Higginson Mill

operates a woodwaste boiler at its facility in Montgomery County, Georgia. The Order under consideration addresses particulate emissions from fuel-burning equipment. These emissions are subject to Georgia's Rules and Regulations for Air Quality Control Section 391-3-1-.02(2)(d)1(ii), which deals with the control of particulate emissions from fuel-burning equipment, and are part of the federally approved Georgia State Implementation Plan. The Order requires final compliance with particulate emission regulations by March 16, 1979, through the implementation of the following schedule for the construction or installation of control equipment:

September 6, 1978—Execute and enter into a binding contract for mechanical fly ash arrester.

January 31, 1979—Complete installation of equipment.

February 14, 1979—Conduct a particulate emission compliance test and submit the results of that test within thirty (30) days of the completion of such testing. The test shall be three runs at maximum operating load. March 16, 1979—The Company shall be in full compliance with the Georgia Rules and Regulations 391-3-1, as demonstrated by a valid particulate emission compliance test.

The Order under consideration addresses particulate emissions from fuel-burning equipment causing pollution which is subject to Georgia's Rules and Regulations for Air Quality Control Section 391-3-1-.02(2)(d)1(ii). These regulations limit the emissions of particulate emission and are part of the federally approved Georgia State Implementation Plan. The Order requires final compliance with the regulation by March 16, 1979, through the implementation of a schedule for the construction or installation of control equipment.

The source is required to submit monthly reports by the 10th day of the month indicating progress toward each milestone in the schedule of compliance. If any delay is anticipated in meeting said milestones, Union Camp Corporation shall immediately notify the Georgia Environmental Protection Division, Department of Natural Resources, in writing of the anticipated delay and reasons therefor. Notification of the delay shall not excuse the delay. In addition, Union Camp Corporation shall submit, no later than five days after the deadline for completing each milestone required by the above schedule certification to Robert H. Collom, Jr., whether or not such milestone has been met.

As an interim control measure, the boiler shall not exceed 40% opacity as defined by EPA Method 9.

Because this Order has been issued to a major source of particulate emissions and permits a delay in compliance with the applicable state air pollution control regulations, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Clean Air Act (the Act). EPA may approve the Order only if it satisfies the appropriate requirements of this subsection. EPA has tentatively determined that the above-referenced Order satisfies these legal requirements.

If the submitted Administrative Order is approved by EPA, source compliance with its terms would preclude federal enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Georgia SIP. Compliance with the proposed Order will not exempt the company from the requirements contained in any subsequent revision to the SIP which are approved by EPA.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the administrator of EPA will publish in the *Federal Register* the Agency's final action on the Order in 40 CFR Part 65.

Authority: 42 U.S.C. 7413, 7601.

Dated: March 22, 1979.

John C. White,
Regional Administrator, Region IV.

[FRL 1088-7; Docket No. DCO-153]

[FR Doc. 79-10009 Filed 3-30-79; 8:45 am]

BILLING CODE 6560-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR part 81]

Air Quality Control Regions, Criteria, and Control Techniques; Attainment Status Designations

AGENCY: Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: This notice proposes a revision to an attainment status designation that was promulgated by EPA on March 3, 1978 (43 FR 8962) pursuant to section 107(d) of the Clean Air Act. Morenci, Greenlee County, Arizona, is proposed to be redesignated

nonattainment (primary) for total suspended particulates (TSP). The proposed redesignation is based on air quality monitoring data that has recorded violations of the primary National Ambient Air Quality Standards (NAAQS) for TSP.

EPA is soliciting public comments on the proposed designation change and will promulgate a revised designation as appropriate. Relevant comments received on or before June 1, 1979, will be considered in the final rulemaking. If the area is redesignated "nonattainment" in the final rulemaking, the State of Arizona will have nine months from the date of that rulemaking to submit to EPA an implementation plan revision (nonattainment area plan).

DATES: Comments will be accepted on or before June 1, 1979.

ADDRESS: Comments should be directed to: Arnold Den, chief, Air Technical Branch, EPA Region IX (A-4), 215 Fremont Street, San Francisco CA 94105.

FOR FURTHER INFORMATION CONTACT: Charlotte Hopper, Acting Chief, Technical Analysis Section, EPA Region IX, Phone: (415) 556-2002.

SUPPLEMENTARY INFORMATION: On March 3, 1978, pursuant to § 107(d) of the Clean Air Act Amendments of 1977, EPA promulgated attainment status designations for all states in relation to the National Ambient Air Quality Standards (NAAQS). At that time, the Morenci area of Greenlee County, Arizona, was designated attainment for TSP based on air quality data from the State of Arizona's monitor at Stargo. A recent review of air quality data from several privately operated monitors in the Morenci area show that numerous violations of the TSP standards were recorded in 1975 through 1978. Because of the violations, EPA is proposing to designate township T4S,R29E nonattainment (primary) for TSP.

Public comments are solicited, particularly concerning the validity of the air monitoring data from the Morenci area during the period 1975 to 1978. Interested persons may participate in this rulemaking by submitting written comments to the EPA Region IX office as indicated in the ADDRESS section of this notice. All relevant comments received on or before June 1, 1979, will be considered, and the final designation will be published in the *Federal Register*. Comments received will be available for public inspection during normal business hours at the EPA Region IX office.

For the area of Arizona that may be redesignated as "nonattainment" in the

final rulemaking, the State of Arizona will have nine months from the final designation to submit to EPA an implementation plan revision.

(Secs. 107(d), 171(2), 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d), 7501(2), 7601(a)))

Dated: March 23, 1979.

Douglas M. Costle,
Administrator.

[FRL 1087-6]

[FR Doc. 79-10021 Filed 3-30-79; 8:45 am]

BILLING CODE 6560-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 81]

Attainment Status Designations: Kentucky and Alabama

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The Clean Air Act Amendments of 1977 required that the Environmental Protection Agency (EPA) designate the attainment status of all areas within the states on a state-by-state, pollutant-by-pollutant basis. This was done on March 3, 1978 (43 FR 8962). Either the state or EPA can initiate changes in these designations, and such changes, if approved, will replace extant designations. This has been done previously for certain areas in EPA's Region IV (43 FR 40412, September 11, 1978).

A review of changes in source attainment status in Kentucky has shown that the "nonattainment" designation for one area can now be properly changed. The purpose of this notice is to solicit comment on the proposal to change the designation for Greenup County in Kentucky to "attainment."

A review of TSP air quality data in Mobile County, Alabama, shows that each of the two monitors in an area presently designated as "non-attainment for secondary standards" has measured no violations for 28 calendar months. Based on this finding, it is proposed to change the designation to one of "attainment." Comment is also solicited on this change.

DATE: Written public comment should be submitted to the person listed below and must be received on or before May 2, 1979 to be considered.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland

Street, N.E., Atlanta, Georgia 30308, 404/881-3286; FTS 257-3286.

SUPPLEMENTARY INFORMATION: On March 3, 1978, Greenup County, Kentucky was designated as nonattainment for sulfur dioxide. The basis for this designation was air quality modelling results in the vicinity of a non-complying source, DuPont's sulfuric acid plant.

Since that time, the source has come into compliance. Recent modelling of the plant at the allowable emission rate now shows compliance with air quality standards. Consequently, the Kentucky Department for Natural Resources and Environmental Protection requested, on December 27, 1978, that the designation be changed to attainment. Based on EPA's finding that Kentucky's submittal is valid, it is proposed to make this change.

On January 19, 1979, the director of the Alabama Division of Air Pollution Control submitted air quality data showing that the national ambient air quality standards for particulate matter were not violated at the Salco and Axis sites (northern Mobile County) during

the period May 1976 through October 1978, and requested that the attainment status of the area be redesignated as attainment. EPA has verified that the data in question meets all applicable Agency criteria established to assure the validity and representativeness of air quality data. Accordingly, is proposed to redesignate the area as the State requests.

(Secs. 107, 171, 301, Clean Air Act (42 U.S.C. 7407, 7501, 7601))

Dated: March 5, 1979.

John C. White,
Regional Administrator, Region IV.

BILLING CODE 6560-01-M

It is proposed to amend Part 81 of Chapter I, Title 40, Code of Federal Regulations, as follows:

Subpart C—Section 107 Attainment Status Designations

* * * * *

1. In § 81.301, the attainment status designation table for TSP is revised to read as follows:

§ 81.301 Alabama.

Alabama—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
That portion of Etowah County within the western section of Gadsden.....	X	X		
That portion of Jackson County surrounding TVA's Widows Creek Plant.....	X	X		
Those portions of Jefferson County within central Birmingham and the area surrounding the Universal Atlas Cement Plant.....	X	X		
That portion of Lauderdale County containing Florence.....			X	
That portion of Mobile County within a section of downtown Mobile.....	X	X		
A portion of Morgan County including portions of the city of Huntsville.....		X		
Rest of State.....				X

* * * * *

2. In § 81.318, the attainment status designation table for SO₂ is revised to read as follows:

§ 81.318 KENTUCKY.

Kentucky—SO₂

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Boyd County.....	X			
That portion of Daviess County in Owensboro.....	X	X		
That portion of Henderson County in Henderson.....	X			
Jefferson County.....	X	X		
McCracken County.....	X			
Muhlenberg County.....	X	X		
Webster County.....	X	X		
Rest of State.....				X

* * * * *

[FRL 1086-2]

[FR Doc. 79-9819 Filed 3-30-79; 8:45 am]

BILLING CODE 6560-01-M

[40 CFR Parts 405, 406, 407, 408, 409, 411, 412, 418, 422, 424, 427, 432]

Best Conventional Pollutant Control Technology; Reasonableness of Existing Effluent Limitation Guidelines (Proposed)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA states that it may use data to compute the costs and levels of pollutant from publicly owned treatment works (POTWs) not identified in the proposed rules for "Best Conventional Pollutant Control Technology" published on August 23, 1978 at 43 FR 37570.

DATE: Comments must be received within 30 days of this notice.

ADDRESS: Send comments on this proposal to: Ms. Emily Hartnell, Environmental Protection Agency, Office of Analysis and Evaluation (WH-586), 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Emily Hartnell, Water Economics Branch (WH-586), 401 M Street, SW., Washington, D.C. 20460 phone (202) 755-2484.

SUPPLEMENTARY INFORMATION: On August 23, 1978, EPA published proposed rules for "Best Conventional Pollutant Control Technology" (BCT), and its determinations of reasonableness of existing effluent limitations guidelines for the secondary industries. 43 FR 37570. In that proposal, EPA specified certain data sources that it used in computing costs and levels of pollutant reduction from publicly owned treatment works (POTWs). Since that original review, new data has been published in two documents prepared by Dames and Moore Consulting Engineers for EPA's Office of Water Program Operations. These documents are entitled: "Construction Costs for Municipal Wastewater Treatment Plants: 1973-1977," (EPA 430/9-77-013, MCD-37, January 1978), and "Analysis of Operations and Maintenance Costs for Municipal Wastewater Treatment Systems," (EPA 430/9-77-015, MCD-39, May 1978).

EPA is considering using this data to revise the POTW calculations contained in its proposed rules. Contrary to the information on which the original calculations were based, this new data indicates some diseconomies of scale with respect to the operating and

maintenance costs at POTWs (costs increase for larger POTWs). Thus, calculations based on this data generally give total annual cost somewhat higher than those specified in the proposal for POTW's of large flow size.

Copies of these documents may be reviewed at the EPA Headquarters Library, 401 M Street, SW., Washington, D.C. 20460 and at all EPA Regional Libraries. Copies of these documents may be obtained by writing GSA (8FSS), Centralized Mailing List Services, Bldg. 41, Denver Federal Center, Denver, Colorado 80225. These documents have previously been widely circulated to industrial groups.

March 26, 1979.

Thomas C. Jorling.

Assistant Administrator for Water and Waste Management.

[FRL 1088-1]

[FR Doc. 79-10015 Filed 3-30-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

[45 CFR Chapter XIII]

Availability of Draft Regulations on Vocational Rehabilitation

AGENCY: Office of Human Development Services, DHEW.

ACTION: Availability of Draft Regulations.

SUMMARY: The office of Human Development Services announces that draft regulations for the designation of a substitute vocational rehabilitation agency within a state are available to the public.

Section 102(b) The 1978 Amendments to the Rehabilitation Act of 1973 (Pub. L. 95-602) allows the Commissioner of Rehabilitation Services to disburse any funds withheld from a State for failure to provide an approvable State plan for vocational rehabilitation services to any public or nonprofit private organization or agency within a State submitting an approvable plan. The draft regulations contain proposed policies which the Department is considering for publication in the *Federal Register* to govern the designation of a substitute vocational rehabilitation agency within a state.

Copies of the draft regulations may be obtained by writing to T. M. Jim Parham,

Deputy Assistant Secretary for Human Development Services, Room 305F, Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

Dated: March 27, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

[FR Doc. 79-9884 Filed 3-30-79; 8:45 am]

BILLING CODE 4110-92-M

OFFICE OF MANAGEMENT AND BUDGET

OFFICE OF FEDERAL PROCUREMENT POLICY

[48 CFR Parts 15, 17, 24, 44]

Federal Acquisition Regulation Project

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Availability and Request for Comment on draft Federal Acquisition Regulation.

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment segments of the draft Federal Acquisition Regulation (FAR) regarding Examination of Records, Multi-year Contracting, Protection of Privacy, Freedom of Information and Subcontracting Policies and Procedures.¹ Availability of additional segments for comment will be announced on later dates. The regulation is being developed to replace the current system of procurement regulations. It will be a single uniform acquisition regulation for use by all Federal executive agencies in the acquisition of supplies and services with appropriated funds.

DATE: Comments must be received on or before May 30, 1979.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William W. Thybony, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, N.W., Room 9025, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: William Maraist, or Strat Valakis (202) 395-3300.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce proliferation of regulations; to eliminate conflicts and redundancies;

¹ Filed as part of original document with the Office of the Federal Register.

and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

The following subparts of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment.

PART 15—NEGOTIATION

15.106 Examination of Records.

This section provides policies, procedures and exemptions regarding the use of the Examination of Records clause. This clause is required by P.L. 82-245 to be included in negotiated contracts. Specific requirements for use of the clause in each of the various types of negotiated contracts will be contained in Part 52—Clauses.

PART 17—SPECIAL CONTRACTING METHODS

17.1 Multi-year Contracting.

This subpart prescribes policies and procedure for multi-year contracting when funds are available on a no-year or multi-year basis. The principle objective of multi-year contracting is greater competition and lower prices by minimizing competitive disadvantages and increasing contractor interest in those acquisitions requiring high start-up costs and substantial capital investment. This subpart further provides that small business set-asides and multi-year contracting may be used together when appropriate. Applicable clauses to be included in FAR Part 52 are included for comment.

PART 24—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

24.1 Protection of Individual Privacy.

This subpart prescribes policies and procedures that apply requirements of the Privacy Act of 1974 and Office of Management and Budget Circular No. A-108, dated July 9, 1975. No policy changes are proposed, however, the current coverage in FPR and the DAR has been substantially reduced. The FAR coverage provides that contractors will comply with the Privacy Act and the rules and regulations issued under the Act, when performing Government contracts involving the design, development, or operation of any system of records on individuals. Applicable clauses are provided for review and comment although these will appear in Part 52 of the completed FAR.

24.2 Freedom of Information.

This subpart prescribes policies and procedures to implement the Freedom Of Information Act (FOIA) as amended (5 U.S.C. 552). The Act and the FAR provides that agencies shall make their records available as specified in the Act, upon public request. Agencies may withhold records only if they fall within one of the specific categories exempted by the FOIA and there is a significant and legitimate governmental purpose served by withholding the records. No policies changes are proposed, however, the FAR coverage is substantially reduced.

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

44.1 General.

This subpart states the policy that consent to subcontractors is required when the subcontract work is complex, the dollar value is substantial, or the Government's interest is not adequately protected by competition or the type of prime contract or subcontract.

44.2 Consent to Subcontract.

This subpart prescribes policies and procedures requiring contracting officers written consent for prime contractors proposing to enter into certain types of subcontracts. It provides the criteria under which consent to subcontracts is required or exempted. Proposed clauses are included for comment and will appear in Part 52 in the completed FAR.

44.3 Contractors' Purchasing Systems Reviews.

This subpart provides policies and procedures regarding the evaluation and approval of a contractors purchasing system when a contractor, for the most recent fiscal year, incurred costs exceeding \$10M under government prime contracts and subcontracts when the contract prices were based on estimated or actual costs. This subpart requires a complete evaluation of a contractor's purchasing system including the contractor's policies, procedures and performance in such areas as; degree of price competition obtained, pricing policies and techniques, methods of evaluating subcontractor responsibility, policies and procedures pertaining labor surplus areas and small business sources. In addition, the Administrative Contracting Officer (ACO) is required to maintain a sufficient level of surveillance to assure that the contractor is effectively managing its purchasing system. Continued approval of a contractor's purchasing system is subject to annual review by the ACO and approval may be withdrawn at any time at the ACO's discretion.

Proposed major policy changes are as follows:

(a) Government surveillance may be waived under certain conditions. In these instances, a contractor will be treated as if the contractor has an approved purchasing system and the government will not conduct surveillance reviews during the period for which the waiver is in effect.

(b) Instruction for use of the fixed-price subcontracts clause have been changed to make the clause mandatory only for fixed-price type contracts over the \$100,000 threshold is being proposed in FAR because lower dollar value contracts are unlikely to result in subcontracts for which the clause requires consent.

Dated: March 27, 1979.

Lester A. Fetting,
Administrator.

[FR Doc. 79-9944 Filed 3-30-79; 8:45 am]

BILLING CODE 3110-01

Notices

Federal Register

Vol. 44, No. 64

Monday, April 2, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

OFFICE OF THE FEDERAL REGISTER

Explanation of Format Changes in This Issue

This issue contains changes in format designed to make the Federal Register easier to read and easier to use.

The most obvious change is in typography. Although the new type is slightly larger, printing costs are not increased because the upper and lower limits of each page have been expanded to permit more characters per page.

The table of contents will regularly begin on the first odd page following the cover page, permitting easy accessibility for the reader to the contents of each issue.

The table of contents is followed by the *List of CFR Parts Affected in This Issue*, which is a numerical guide to the parts of the *Code of Federal Regulations* affected in the issue.

Reader Aids

All other aids to the reader will appear at the back of each day's Federal Register in a new part entitled "Reader Aids." These include:

Information and Assistance—a list of telephone numbers at the Office of the Federal Register where specific information may be obtained.

List of agencies that have agreed to publish all documents on assigned days of the week;

Cumulative List of CFR Parts Affected during the current month;

Reminders which currently include:

Daily

Rules going into effect today
List of Public Laws

Every Wednesday

Next week's deadlines for comments on proposed rules
Next week's meetings
Next week's public hearings
List of documents relating to federal grant programs

First Issue of each month:

Table for computing effective dates and time periods.
List of agency abbreviations used in highlights and remarks.
CFR checklist of current issuances and prices.

Any other information that will help the reader use the Federal Register more effectively.

Fred J. Emery,
Director, Office of the Federal Register.
March 20, 1979.

[FR Doc. 79-10112 Filed 3-30-79; 8:45 am]
BILLING CODE 6820-27-M

DEPARTMENT OF AGRICULTURE

FEDERAL GRAIN INSPECTION SERVICE

Mandatory Inspection and Weighing Requirements Limited; Interim Exemption

AGENCY: Federal Grain Inspection Service (FGIS).

ACTION: Notice of limited exemption from the mandatory inspection and weighing requirements.

SUMMARY: Notice is given that a 15,000 metric ton interim exemption from the mandatory grain inspection and weighing requirements of Section 5 of the United States Grain Standards Act, As Amended (7 U.S.C. 71 *et seq.*, hereafter the "Act"), will be given this calendar year to exporters who during the last calendar year exported less than 15,000 metric tons of grain from the United States, provided certain requirements are met.

EFFECTIVE DATE: April 2, 1979.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, U.S. Department of Agriculture, FGIS, Compliance Division, Washington, D.C. 20250, telephone (202) 447-9300.

SUPPLEMENTARY INFORMATION: The Service has been aware for some time of the impact the mandatory inspection and weighing requirements have on exporters who ship only a nominal amount of grain from interior locations into export markets. Further, industry representatives, as well as the Advisory Committee established pursuant to the Act, have recommended consideration be given to granting some degree of relief from these requirements. After review of the matter, the Administrator

has decided to grant, on an interim basis, an exemption from the mandatory inspection and weighing requirements of Section 5 of the Act for the first 15,000 metric tons of grain exported from the United States during the current calendar year by an exporter who qualifies under the conditions hereinafter set out.

To be eligible to apply for this interim exemption, an exporter must have exported less than 15,000 metric tons of grain during the 1978 calendar year and must have exported less than 15,000 metric tons of grain to date during the current calendar year from the United States. For the purposes of this Notice, the term "exporter" means:

(1) Any grain elevator, warehouse, or other storage or handling facility that loads or ships any bulk or sacked grain in a final carrier or container in which the grain is to be transported from the United States; or

(2) Any person who acquires ownership of grain and thereafter directly exports such grain or causes such grain to be directly exported from the United States without further handling of such grain by a grain elevator, warehouse, or other grain storage or handling facility.

A request for interim exemption shall be in writing and filed with FGIS by the exporter at least 10 days in advance of the desired effective date of the exemption in order to allow for processing and determination of eligibility by FGIS. The request must contain a statement that the applicant has not exceeded the 15,000 metric ton limitation for the 1978 calendar year and state the total quantity of grain exported to date during the current calendar year. The Administrator may, upon a showing of good cause, waive this 10-day requirement under special circumstances.

In addition, the following information shall be submitted in writing to FGIS sufficiently in advance of each export shipment made during the duration of this exemption to assure that the information will be received prior to commencement of loading. If, for reasons beyond the exporter's control, any or all of the required information is not available sufficiently in advance of commencement of loading for submission in writing to FGIS, the information may be submitted by

telephone provided it is submitted prior to commencement of loading and written confirmation is sent the same day to FGIS, Compliance Division. The information required is:

1. The kind and quantity of grain to be shipped.

2. Type of shipment (bulk, sacked, containerized).

3. Name and location of the facility from which the grain will be shipped.

4. Date and time for commencement of loading of shipment.

5. Point of export and approximate date shipment will leave the United States.

6. Destination of shipment.

7. Identification of shipment, which shall include either railcar number(s), truck or trailer license number(s), container number(s), or name of the export vessel (as applicable).

This information shall be forwarded to the U.S. Department of Agriculture, FGIS, Compliance Division, Washington, D.C. 20250, telephone (202) 447-9300.

Exporters using this interim exemption must also:

1. Maintain complete records of all export shipments, including the exempted shipments.

2. Make these records available to FGIS upon request for verification purposes.

The exemption from official weighing for truck and rail shipments of grain exported into Canada from other than export port locations, published in the *Federal Register* dated October 20, 1978, shall not be affected by any of the provisions in this Notice. (See *Federal Register*, Vol. 43, No. 204, page 49027.)

Dated: March 28, 1979.

David C. Mangum,
Acting Administrator.

[FR Doc. 79-9943 Filed 3-30-79; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

1981-1986 Five-Year Timber Harvest Plan for the Alaska Lumber & Pulp Co., Environmental Impact Statement

Pursuant to the 50-year timber sale contract entered into by the Chief of the Forest Service, USDA, and Alaska Lumber and Pulp Company of Sitka, Alaska, on January 25, 1956, the Forest Service and the company are preparing a timber harvest to provide 525 million board feet of timber during the five year period beginning in 1981.

The areas being considered for harvest are located on the Chatham and Stikine Areas of the Tongass National Forest in southeast Alaska. The selection of harvest areas will be carried

out within the context of decisions reached through the Final Environmental Impact Statements of the Roadless Area Review and Evaluation (RARE II) and the Tongass Land Management Plan (TLMP).

Decisions on basic land allocation in southeast Alaska are a subject of considerable controversy. A full range of National Forest land allocation alternatives was considered in development of the Tongass Land Management Plan. Timber harvest for the 1981-1986 Alaska Lumber & Pulp Company operating period will conform to the Tongass Land Management Plan allocation decision. Timber harvest will be proposed only in areas allocated to Land Use Designation (LUD) III or IV, both of which provide management direction for sustained yield of timber products.

Among the management alternatives prepared for the 1981-1986 Environmental Impact Statement will be a "No Action" alternative which would leave the management areas being considered in their present, largely unroaded and undeveloped state, but available for potential timber harvest in the future. The statement will not consider a wilderness or primitive development alternative since these basic land use allocations are determined through TLMP and RARE II decisions covering all Tongass National Forest Roadless areas. All alternatives prepared will address: selection of harvest; methods of harvest; location of facilities; and the protection or enhancement of physical, biological, social, and economic values in the affected management areas.

Environmental and socioeconomic assessment was initiated early in 1978 with establishment of an interdisciplinary team and study process. Participating in this process were the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State of Alaska Departments of: Fish and Game; Environmental Conservation; and Community & Regional Affairs. Expanded participation will be established upon publication of the Draft Environmental Impact Statement through directives of OMB Circular A-95 and the State of Alaska Clearinghouse.

As the lead agency in preparation of the Environmental Impact Statement, the Forest Service, USDA, incorporated in the initial charter of the interdisciplinary team a public involvement program. Scoping meetings to identify major issues, interested publics, and resource information have been held in the communities of Juneau,

Sitka, Petersburg, Wrangell, Port Alexander, Hoonah, and Tenakee Springs. Written information concerning preliminary planning has been provided to officials and residents of these communities and others, including Angoon, Haines, Skagway, Elfin Cove, Pelican, Kake, and Yakutat. Early participation by interest groups, Village and Regional Native Corporations, and individuals with known interest in Tongass National Forest planning—both within southeast Alaska and outside the region—has been sought and received.

Upon publication of the Draft Environmental Impact Statement, additional public involvement will be sought to correct or validate preliminary input, and to provide guidance in the decisionmaking process leading to a proposed action.

It is anticipated that the Draft Environmental Impact Statement will be completed by September 1, 1979, and the Final Environmental Impact Statement will be available for filing with the Environmental Protection Agency on or about March 1, 1980.

The responsible official is Chief John R. McGuire, Forest Service, USDA, Washington, DC.

Specific inquiries or requests for copies of the Draft Environmental Impact Statement may be addressed to the Forest Supervisors of the Chatham Area, P.O. Box 1980, Alaska; or of the Stikine Area, P.O. Box 309, Petersburg, Alaska.

Dated: March 23, 1979.

Einar L. Roget,
Associate Deputy Chief.

[FR Doc. 79-9932 Filed 3-30-79; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Crowdabout Creek Watershed, Ala., Deauthorization of Federal Funding

Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566 and the Soil Conservation Service Guidelines (7 CFR Part 622), Federal funding for the Crowdabout Creek Watershed, Morgan, Lawrence, and Cullman Counties, Alabama, is hereby deauthorized.

A notice of intent not to file an environmental impact statement for deauthorization of Federal funding was published on January 5, 1979. Appropriate committees of Congress and concerned Federal State, and local agencies were notified of the proposed deauthorization at least 60 days prior to the effective date. No objections to

deauthorization or expressions of support to complete the project have been made known to the Soil Conservation Service.
Dated: March 26, 1979.

William H. Holton,
Head, Office Services Unit, Administrative Service Division.
(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Public Law 83-566, 16 USC 1001-1008.)

[FR Doc. 79, 9784 Filed 3-30-79; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Connecticut Advisory Committee; Meeting

Notice is hereby given, pursuant to the provision of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) of the Commission will convene at 7:00 pm and will end at 9:00 pm on April 18, 1979, in the Holiday Inn, Meriden, Connecticut.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss project development and community development Block Grants.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 27, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-9945 Filed 3-30-79; 8:45 am]

BILLING CODE 6335-01-M

Delaware Advisory Committee; Meeting

Notice is hereby given pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Delaware Advisory Committee (SAC) of the Commission will convene at 1:00 pm and will end at 5:00 pm on April 25, 1979, at the Union Baptist Community Services Agency Conference Room, 2801 North Pine Street, Wilmington, Delaware 19802.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Washington D.C., 20037.

The purpose of this meeting is to orientate new members and to review program year planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated At Washington, D.C., March 27, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-9946 Filed 3-30-79; 8:45 am]

BILLING CODE 6335-01-M

Idaho Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Idaho Advisory Committee (SAC) of the Commission will convene at 11:00 am and will end at 5:00 pm on April 21, 1979, in the Rodeway Inn, Malheur Room, 29th and West Chinden, Boise, Idaho 83704.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is to review final draft report and recommendations on migrant housing project; Introduction and orientation of new SAC members; and to discuss projected AOJ program.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 27, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-9947 Filed 3-30-79; 8:45 am]

BILLING CODE 6335-01-M

Illinois Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 am and will end at 3:00 pm on April 23, 1979, in the Conference Room at 230 South Dearborn Street, Room 3280, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is for the election of officers, and to discuss projects for fiscal years 1980 and 1981.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 27, 1979.

John I. Binkley,
Advisory Committee Management Officer.

[FR Doc. 79-9948 Filed 3-30-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Territorial Affairs

Rules for the Allocation of Watch Quotas for Calendar Year 1979 Among Producers Located in the Virgin Islands, Guam and American Samoa: Correction

In FR Doc. 78-35511 appearing at pages 60313 through 60322 in the Federal Register of December 27, 1978, Section 4, column 2, lines 32 to 37 on page 60318 are corrected to read:

Section 4. Quota set aside for new firms in Guam under subsection 5(b) shall be subtracted from the quota amount allocable under section 3, before allocations are made pursuant to that section.

As noted in the "Conclusion" section of the preamble to the December 27 Notice, appearing in the 3rd column on page 60317, the substance of Sections 1 and 2 of the proposed rules were incorporated in Sections 1 through 3 of the final rules and Sections 3 through 7 of the proposed rules were redesignated as Sections 4 through 8 of the final rules. As a result of this change in the numbering of the sections the reference to "subsection 2(b)" in Section 4 of the December 27 Notice should have been changed to read "Section 3".

Dated: March 27, 1979.

Richard M. Seppa,
Director, Statutory Import Programs Staff.

Ruth Van Cleave,
Director of Territorial Affairs, U.S. Department of the Interior.

[FR Doc. 79-9836 Filed 3-30-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Licensing Procedures Subcommittee to the Computer Systems Technical Advisory Committee; Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical

Advisory Committee will be held on Tuesday, April 17, 1979, at 9:00 a.m. in Room 1851, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was initially established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has six parts:

- (1) Opening remarks by the Subcommittee Chairman
- (2) Presentation of papers or comments by the public
- (3) Review of status of pending recommendations, as discussed at the March 14, 1979 meeting
- (4) New agenda items, as proposed by the Department of Commerce:
 - a. Procedures for licensing by precedent
 - b. Standard format for background information for licensing applications
 - c. Simplified application format for small cases
- (5) Discussion of "subsystem evaluation" as a licensing procedure

(6) Discussion of "qualified product distribution license" as presented by member of the public, March 14, 1979.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: March 28, 1979.

Lawrence J. Brady,

Acting Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-10036 Filed 3-30-79; 8:45 am]

BILLING CODE 3510-25-M

Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, April 17, 1979, at 1:30 p.m. in Room 5611, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975. On October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production

technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Foreign Availability Subcommittee was formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The Subcommittee meeting agenda has five parts:

- (1) Opening remarks by the Subcommittee Chairman
- (2) Presentation of papers or comments by the public
- (3) Review of East European and U.S.S.R. computer performance parameters.
- (4) Review of 1979 Leipzig Fair.
- (5) Discussions of future projects for the Subcommittee.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: March 28, 1979.

Lawrence J. Brady,

Acting Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-10037 Filed 3-30-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

Maritime Administration

Transfer and Interchange (Substitution) Policy of the Maritime Policy Board

Notice is hereby given that the Maritime Subsidy Board, in order to promote greater efficiency in the utilization of existing U.S.-flag subsidized vessels and provide for increased flexibility of subsidized capability to meet increasing foreign competition of highly productive vessels

while maintaining the adequacy of sailings on services under operating-differential subsidy agreements, has adopted the following policies with respect to the grant of interchange (substitution) and transfer privileges to subsidized liner operators:

1. Interchange (substitution) privileges shall normally be granted to all vessels having reasonably comparable capacity, regardless of vessel type (i.e., breakbulk, containership, Ro/Ro or barge carrying vessels), between services in one or more contracts of any operator, subject to prior findings of suitability of such vessels under section 211 of the Merchant Marine Act, 1936, as amended (th Act), for each of the services or routes of the operator, and such other terms and conditions as may be appropriate in individual circumstances.

2. Transfer privileges, meaning the deployment of a vessel to other than the service to which the vessel is assigned or on which the vessel is then currently operating, shall normally be granted to all vessels having reasonably comparable capacity, regardless of vessel type (i.e., breakbulk containership, Ro/Ro or barge carrying vessels), between services in one or more contracts of an operator, provided vessels having reasonably comparable capacity were considered in the context of an appropriate proceeding or action, authorized to be employed on a service or services under an existing contract, or have been constructed pursuant to a contractual replacement requirement for operation on a service or services. To the extent that any requested vessel transfer privilege cannot be granted as herein provided, notice shall be published in the *Federal Register*, inviting comment of interested parties and appropriate action thereon shall be taken. The grant of transfer privileges shall be subject to (1) prior findings of suitability of such vessel under section 211 of the Act for each of the services or routes of the operator, (2) the operator providing sailings at or above the minimum sailing requirements on all services unless the reason for not so providing such minimum sailings is clearly within the meaning of Article II-2 of the operating-differential subsidy agreement or agreements, and (3) such other terms and conditions as may be appropriate in individual circumstances.

3. Interchange (substitution) and transfer privileges for replacement vessels, if not determined at the time of award of operating-differential subsidy, if other than for like type existing subsidized vessels having reasonably comparable capacity, shall be

determined at the time of the grant of construction-differential subsidy.

4. Each operator party to an operating-differential subsidy contract with specified annual minimum sailing requirements, who, because of lack of cargo or other reasons other than those beyond the control of the Operator within the meaning of Article II-2 of the Contract, has reason to believe that the minimum sailing requirement on any service or services will not be met within the calendar year, may notify, but not later than June 30 of such calendar, the Assistant Administrator for Maritime Aids of such anticipated failure setting forth the reasons for the reduced sailings, the anticipated sailings for the remainder of the year on all services in one or more contracts and may request an appropriate reduction in the minimum sailings on the service or services for that year. The grant of a reduction in minimum sailings for the service or services pursuant to such request will not affect the interchange (substitution) privilege of vessels which privilege may continue to be exercised without prior approval. However, transfer privileges with respect to such services commencing on the date of such request shall, except with prior approval, only be permitted for the transfer of vessels to the services not expected to meet minimum sailing requirements during the period of the requested reduction in minimum sailings.

5. Notwithstanding the provisions of 4. above, if an operator has failed to provide sailings at or above the minimum sailing requirements on any service for any calendar year commencing with calendar year 1979, for reasons other than those falling clearly within the clearly within the meaning of Article II-2 of the operating-differential subsidy agreement(s), the operator may be required to obtain prior approval before or may be prohibited from exercising any transfer privilege applicable to that service or services, in which event the requirement to obtain prior approval or prohibition of transfer privileges will continue until the calendar year subsequent to the calendar year in which the minimum sailing requirements have been met on the service or services not be met for reasons other than those falling clearly within the meaning of Article II-2 of the operating-differential subsidy agreement(s) for a period of three consecutive years, the maximum sailing requirements on such service(s) may thereafter be permanently reduced by the average number of sailings by which the operator failed to meet the minimum

sailing requirements but only after the operator has been given notice and opportunity to comment on the proposed reduced maximum sailing requirement.

6. The foregoing policies shall be effective for further subsidy applications, meaning any application which is now being considered or may hereafter be submitted, including those applications which may deal with any modifications of contracts as they relate to vessels, sailings, services or modifications of existing interchange or transfer privileges, and shall be applicable to the total services of any operator notwithstanding that the application of that operator may concern only a portion of its existing contract or contract. Approved by the Maritime Subsidy Board, Maritime Administration. Dated: March 23, 1979.

James S. Dawson,
Secretary.

[FR. Doc. 79-9844 Filed 3-30-79; 8:45 am]
BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Application for Permit; Correction

On March 20, 1979, Notice was given that the Bureau of Land Management, P.O. Box 1159, Anchorage, Alaska, had applied for a scientific research permit under the Marine Mammal Protection Act of 1972, and the Endangered Species Act of 1973.

The number of the two species to be taken was erroneously stated to be 590 grey whales (*Eschrichtius robustus*) and 2,575 bowhead whales (*Balaena mysticetus*). The Notice should have stated that 575 grey whales and 2,590 bowhead whales would be taken. Of these, 100 grey whales and 500 bowhead whales would be taken by harassment per year for 5 years. Specimen materials would be collected from 15 dead beached grey whales per year. Specimen materials from 90 bowhead whales would be taken on an as available basis. Dated: March 27, 1979.

William Aron,
Director, Office of Marine Mammals/Endangered Species,
National Marine Fisheries Service.

[FR. Doc. 79-9835 Filed 3-30-79; 8:45 am]
BILLING CODE 3510-22-M

Issuance of Permit

On February 21, 1979, Notice was published in the *Federal Register* (44 FR 10529), that an application had been filed with the National Marine Fisheries Service by Brian W. and Patricia A. Johnson, P.O. Box 3830, Honolulu,

Hawaii 96816, for a permit to take by marking and remarking once one hundred twenty (120) Hawaiian monk seals (*Monachus schauinslandi*) for the purpose of scientific research.

Notice is hereby given that on March 26, 1979, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued a Permit to Brian W. and Patricia A. Johnson for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973, is based on a finding that such permit: 1) was applied for in good faith; 2) will not operate to the disadvantage of the endangered species which are the subject of the permit; and 3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with, and is subject to, Parts 220 and 222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

(39 F.R. 41367, November 27, 1974).

The Permit is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: March 26, 1979.

Winfred H. Meibohm,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 79-9833 Filed 3-30-79; 8:45 am]

BILLING CODE 3510-22-M

Issuance of Permit

On October 18, 1978, Notice was published in the *Federal Register* (43 FR 47994), that an application had been filed with the National Marine Fisheries Service by Drs. Burney Le Boeuf and Charles L. Ortiz, Crown College for Coastal Marine Studies, University of California, Santa Cruz, California 95064, for a permit to take 15,021 of four species of marine mammals for scientific research. This application was subsequently amended to cover one of the studies previously requested.

Notice is hereby given that on March 22, 1979 and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-

1407), the National Marine Fisheries Service issued a Scientific Research Permit to Dr. Charles L. Ortiz, to conduct a physiological study on twelve (12) Northern elephant seals (*Mirounga angustirostris*) subject to certain conditions set forth therein.

The Permit is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: March 22, 1979.

Winfred H. Meibohm,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 79-9834 Filed 3-30-79; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to discuss: (1) Pollock FMP; (2) Personnel Policy; (3) proposed amendments to Groundfish/Atlantic Herring MFP's; and (5) other business.

DATES: The meeting will convene on Wednesday, April 18, 1979, at approximately 10 a.m. and will adjourn on Thursday, April 19, 1979, at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Holiday Inn, Junction of Routes 1 and 128, Peabody, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Executive Director, New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960, telephone: (617) 535-5450.

Dated March 27, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

[FR Doc. 79-9832 Filed 3-30-79; 8:45 am]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Oregon Department of Fish and Wildlife.

b. Address: Marine Science Drive, Bldg. No. 3, Newport, Oregon 97365.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals:

Harbor seals (*Phoca vitulina*), 300; Northern sea lions (*Eumetopias jubatus*) 15.

4. Type of Take: Beached and stranded pinnipeds, all species examined. Activities will probably involve harassment. 150 harbor seals and 15 northern sea lions will be taken for stomach analysis. 150 harbor seals will be marked or tagged with radio tags and/or flipper tags.

5. Location of Activity: Columbia River and Adjacent Waters of Oregon and Washington State.

6. Period of Activity: 3 years.

Concurrent with the publication of this notice in the *Federal Register* the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109.

Dated: March 27, 1979.

William Aron,

Director, Office of Marine Mammals/Endangered Species, National Marine Fisheries Service.

[FR Doc. 79-10038 Filed 3-30-79; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Consumer Product Information Labeling Program

AGENCY: Assistant Secretary of Commerce for Science and Technology, Commerce.

ACTION: Suspension of the Consumer Product Information Labeling Program.

SUMMARY: Due to the current Government-wide effort to limit expenditures, particularly for new programs, the Consumer Product Information Labeling Program (CPILP) has been suspended, and the proposed CPILP labeling specification for thermal insulation for homes (43 FR 23488) has been withdrawn. This notice also is intended to serve as the annual report required by the CPILP procedures. A more comprehensive report of the CPILP experience is planned which will provide a useful basis for making decisions regarding future Federal Government plans or programs to provide performance-type labeling information on consumer products.

FOR FURTHER INFORMATION CONTACT: Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-3221.

SUPPLEMENTARY INFORMATION: On May 25, 1977, the Department of Commerce announced in the *Federal Register* (42 FR 26647) procedures under which a voluntary Consumer Product Information Labeling Program (CPILP) would be administered by the Department. The goal of this program was to make available to consumers at the point of sale information about consumer product performance to facilitate the making of more accurate consumer purchasing decisions and enhance consumer satisfaction.

The program was instituted after considering the written statements and oral testimony received from 97 private citizens, consumer organizations, retailers, manufacturers, trade associations, testing laboratories, consulting organizations, educators, and government agencies. Although a majority of the commentators favored

initiation of the program, there was sufficient opposition, particularly from trade associations and manufacturers, that the Department of Commerce decided to institute the program on a one year pilot project basis. At the end of the year, the Department was to decide whether the program merited continuance.

Immediately after initiation of CPILP, consultations were held with groups of consumers and consumer representatives, manufacturers, retailers, and other Government officials to select appropriate products for labeling during the pilot phase. Suggestions and comments concerning CPILP were solicited from the public through the news media and via program pamphlets made available to the public through state and local Government consumer affairs offices, private consumer organizations, and some public libraries. During the period June 24, 1977 through June 30, 1978, 1,375 letters and postcards concerning CPILP were received from the public, a preponderance of them in support of the program. A total of 145 different products or product categories (e.g. automotive accessories, food, appliances, etc.) was suggested for inclusion in the program. Only 17 letters expressed opposition to the program.

Three factors were important in product selection for CPILP by the Department of Commerce: (1) the degree of interest expressed by consumers and consumer representatives in having more performance information for a particular product at the point of sale; (2) the degree of interest shown by manufacturers and retailers of that product in participating in the voluntary labeling program; and (3) the time and money required to solve the technical difficulties in testing the product for important performance characteristics and to design a label which accurately expresses the resulting information about the product in a manner understandable to consumers.

This last factor turned out to be more important during the pilot program than had been anticipated. No products of more than minimal interest to consumers could be identified that were essentially free of the technical difficulties mentioned above. Accordingly, an extension of the CPILP pilot period until September, 1979 was authorized by the Secretary. Questions of funding, however, were left unsettled.

Thermal insulation for homes was selected as the first product for which a CPILP label was to be developed. The Department of Commerce published a finding of need to label thermal

insulation, and set out the basis for such finding in the December 14, 1977 *Federal Register* (42 FR 62946). Consumer groups generally supported this product selection. As indicated below, not all insulation manufacturers were supportive. Technical questions also existed concerning the appropriate test methods for determining fire and corrosion characteristics of insulation.

There was the further complication that other Government agencies are considering issuing or have promulgated information disclosure requirements for thermal insulation attributes of interest to them. For example, the Federal Trade Commission has published a proposed Trade Regulation Rule (42 FR November 18, 1977, 59678) which would require labeled information in insulation packages for R value (thermal resistance) and area coverage. A revision of this proposed Trade Regulation Rule is contained as Appendix A in a Federal Trade Commission Staff Report which was announced in the *Federal Register* of July 25, 1978 (43 FR 32142). The Consumer Product Safety Commission has issued (42 FR August 8, 1978, 35240) an interim mandatory safety standard which requires a statement of compliance with the applicable Federal flammability standard on cellulose insulation labels. A proposed amendment to this interim standard was published in the *Federal Register* of September 6, 1978 (43 FR 39720). CPILP labeling specifications cannot take precedence over mandatory labeling requirements. However, the Department of Commerce believed it would be desirable to provide on a single label, of uniform format, mandated information and other information that would assist consumers to make an informed purchase. CPILP labels thereby were envisioned as a means for consolidating the various labeling requirements of different Federal agencies with other information which would help simplify product comparison at the point of sale. To this end, an amendment to the CPILP procedures was published in the March 1, 1978 *Federal Register* (45 FR 8254) Authorizing the inclusion on CPILP labels of information about performance characteristics which are included in the labeling programs of other Federal agencies, provided the other agencies agreed. On April 11, 1978 the Secretary of Commerce wrote to the heads of five other Government agencies requesting that, where information required by these agencies was shown on a CPILP label in a form acceptable to the requiring agency, the CPILP label be accepted as meeting disclosure

requirements of those agencies. The CPILP staff conferred frequently with the technical staffs of other agencies to coordinate label requirements for thermal insulation. Efforts to avoid undue multiplicity of Federal labeling requirements would have been continued if CPILP had not been suspended. Despite the suspension of CPILP, the Department of Commerce will cooperate with other agencies to facilitate the use of information and expertise gathered during the operation of CPILP.

The Department of Commerce published a proposed specification for labeling thermal insulation in the May 30, 1978 *Federal Register* (43 FR 23488). Interested parties were invited to comment. Forty-five letters were received. Whereas a few of the comment letters expressed only support for or opposition to the program, a large majority of the comments suggested changes to the proposed specification. Some of the proposed changes and the context in which they were presented suggested that many of the manufacturers which control much of the insulation market would be reluctant to participate in the program. Other letters from suppliers, who also proposed changes, were supportive in tone. On balance, it seemed probable that the proposed specification could readily be modified so that sufficient manufacturers would have participated in the program and thereby warrant continuance of the effort to develop labels for thermal insulation. However, this likelihood will remain conjectural as budgetary pressures have forced suspension of the program.

Due to the currently severe stresses upon the economy, and the Government-wide efforts to reduce Federal expenditures, FY-1979 CPILP funding had to be drastically reduced. These reduced funds would no have been adequate to: complete development of product labels; work with manufacturers in implementing the program; inform the public of the availability and proper use of the labels; monitor the program properly and conduct a meaningful evaluation of its merits. Therefore, the Department of Commerce decided to suspend the pilot program without publishing the final labeling specification for thermal insulation, which would have been the last procedural step prior to accepting insulation suppliers as participants in the program. A comprehensive report of the CPILP experience is planned which will provide a useful basis for making any decisions regarding future

Government programs for performance labeling of consumer products.

The Department of Commerce hereby suspends the Consumer Product Information Labeling Program and withdraws the proposed specification for Labeling of Thermal Insulation for Homes (43 FR 23488).

Issued: March 27, 1979.

Jordan J. Baruch,

Assistant Secretary for Science and Technology.

[FR Doc. 79-10043 Filed 3-30-79; 8:45 am]

BILLING CODE 3510-13

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Restraint Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products From the Polish People's Republic; Correction

March 27, 1979.

On January 3, 1979, there was published in the *Federal Register* (44 F.R. 931) a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs establishing levels of restraint for certain cotton, wool and man-made fiber textile products exported from the Polish People's Republic during the twelve-month period which began on January 1, 1979. The level for Category 338 in that letter should be corrected to read as follows:

Category, 338: Twelve-Month Level of Restraint, 610,972 dozen of which not more than 180,556 dozen shall be in T.S.U.S.A. numbers 380.0651 and 380.0652.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-9854 Filed 3-30-79; 8:45 am]

BILLING CODE 3510-25-M

COUNCIL ON ENVIRONMENTAL QUALITY

National Environmental Policy Act Regulations and the Federal Permitting Process

March 23, 1979.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only; Publication of Memorandum For Energy Coordinating Committee Members.

SUMMARY: The Council on Environmental Quality issued a Memorandum for Energy Coordinating Committee Members entitled "How the

NEPA Regulations Improve the Federal Permitting Process" (December 21, 1978). This Memorandum has been the subject of considerable public interest. In order efficiently to respond to public requests this memorandum is reprinted in this issue of the *Federal Register*.

FOR FURTHER INFORMATION CONTACT:

Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006; 202-395-5750.

Nicholas C. Yost,

General Counsel.

December 21, 1978.

Memorandum for Energy Coordinating Committee Members

SUBJECT: How The NEPA Regulations Improve The Federal Permitting Process.

In its newly adopted regulations under the National Environmental Policy Act, the Council adopted a series of specific measures which will greatly improve the federal permitting process for energy facilities. The new regulations go beyond environmental impact statement requirements and address broader issues in integration and coordination of all environmental review and permit requirements. Major reforms include: All permits identified early. All agencies with authority over a project required to consult early and work with the lead agency. All agencies to develop procedures to aid applicants. Avoidance of delay. Time limits on NEPA process must be set at applicant's request. All reviews to be prepared concurrently rather than consecutively. All information or mitigation that will be necessary to approve the project to be identified early. Eliminates duplication in EIS preparation. This memorandum briefly discusses these and other provisions in the new NEPA regulations, which were issued on November 29, 1978.

Project sponsors often face a number of federal permit and license requirements before construction can start. There are a variety of federal statutes requiring different kinds of environmental reviews to precede the issuance of applicable federal permits or licenses. While NEPA's EIS requirement is the only comprehensive environmental review requirement, a project may require compliance with specialized environmental reviews and analyses such as those required under the Fish and Wildlife Coordination Act (in connection with the issuance of dredge and fill permits), or those required under the Clean Air Act (in connection with permits issued directly by EPA or by a state through its State Implementation Plan requirements). Similarly, a non-federal project may require federal permission and compliance with federal environmental reviews for some components, such as a BLM easement over public lands for transmission lines for a fossil fuel generating plant that otherwise requires no federal permits. In the past there have been cases, particularly where multiple federal permit

and environmental review requirements are applicable, where compliance with various federal permit and environmental review requirements has been delayed. Reasons for delay include lack of coordination among federal agencies having approval and review authority, sequential (rather than concurrent) processing of permit and review requirements, failure to prepare environmental reviews early during the planning stages, inadequate guidance from federal agencies to permit applicants, adversary relations between agencies having differing missions, and duplication between federal and state environmental protection requirements.

The Council's final NEPA regulations address each of these problems in the federal permitting process. Applicable provisions in the NEPA regulations which will improve federal permitting are summarized below.

1. Agencies having permitting, licensing or other approval authority over a project are required to consult early in the planning of the project. During this early consultation, called the "scoping process" agencies are to identify significant environmental issues, identify all applicable permit and environmental review requirements, and organize the preparation of the EIS in a way that consolidates and integrates all environmental reviews. (Sections 1501.1, 1501.2, 1501.7).

2. Agencies with jurisdiction by law over the project (e.g., permitting or approval authority) are required to cooperate with the lead agency in preparing the EIS. An agency having permit authority over a component of the project cannot stay aloof from the EIS preparation and intervene at later stage in the project approval to conduct environmental reviews necessary for the permit. (Section 1501.6).

3. Agencies having permitting or licensing authority are required to develop procedures that facilitate application of the NEPA process at the earliest possible time in cases where projects are being planned by private applicants or other non-Federal entities before Federal involvement. Such procedures must make available to potential applicants agency policies or designated staff to advise applicants of studies or other information foreseeably required for the later-stage Federal permit or approval. Such procedures must also indicate how the agency will consult early with appropriate State and local agencies, Indian tribes, interested private parties and organizations when the Federal agency's permitting authority is reasonably foreseeable. (Section 1501.2(d)).

4. In order to avoid delays in applying the NEPA process to permits, the regulations require environmental assessments or EIS's to be started no later than immediately after the permit application is received, preferably earlier and jointly with applicable State or local agencies. (Section 1502.5(b)). In addition, the lead agency is required to set time limits for the NEPA process at the request of the permit applicant so long as the time limits are consistent with NEPA and other essential considerations of national policy (Section 1501.8).

5. In order to minimize delays caused by sequential preparation of environmental

reviews and analyses for a project requiring federal permits, licenses or approvals, the regulations require that the draft EIS serve to the maximum extent as the vehicle for conducting all required environmental reviews. Thus the draft EIS is to be prepared concurrently with and integrated with environmental studies, reports and analyses required by other federal statutes, regulations and Executive Orders (Section 1502.25(a)).

6. To facilitate identification of federal permit requirements for a project, the regulations require that all applicable federal permits, license and other approval requirements be identified initially when the EIS is started (Section 1501.7) and again when the draft EIS is circulated for review and comment (Section 1502.25(b)).

7. To improve coordination among federal agencies having authority over a project and to minimize adversary relations between agencies with conflicting missions, the regulations require federal agencies with jurisdiction by law to comment on the draft EIS and to state in their comments whether they need additional information to fulfill environmental review requirements for permits, licenses or entitlements they issue, and to state what additional information is required. In particular, a cooperating agency is required to specify any additional information it needs to comments adequately on the draft EIS's analysis of site-specific effects associated with the granting or approving by that agency of necessary Federal permits, licenses or entitlements. (Section 1503.3(c)).

Reinforcing this requirement, the regulations provide that when one federal agency with jurisdiction by law objects to or expresses reservations about the project on environmental impact grounds, the agency expressing the reservation or objection must specify any mitigation measures it considers necessary to allow the agency to grant or approve applicable permit, license or related requirements or concurrences (Section 1503.3(d)). These provisions will help insure that federal permitting agencies will work closely with the lead agency in resolving environmental impact issues, and avoid adversarial positions which cause delay in the permitting process.

8. To minimize delays in the permitting process caused by duplicate reviews, the regulations allow a federal permitting agency to adopt the EIS prepared by the lead agency without recirculating it for review (Section 1506.3(c)). In addition, the regulations provide for eliminating duplication between the Federal EIS and State/local review requirements (Section 1506.2).

Charles Warren,

Chairman.

[FR Doc. 79-9940 Filed 3-30-79; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF DEFENSE

DEPARTMENT OF THE AIR FORCE

USAF Scientific Advisory Board; Meeting

March 26, 1979.

The USAF Scientific Advisory Board Ad Hoc Committee on Space Defense will meet on April 24 & 25, 1979 at the Pentagon, Washington, DC. The purpose of the meeting is to review the space defense technology options. The Committee will meet from 9:00 a.m. to 4:30 p.m. each day.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Carol M. Rose

Air Force Federal Register, Liaison Officer.

[FR Doc. 79-9849 Filed 3-30-79; 8:45 am]

BILLING CODE 3910-01-M

FEDERAL ENERGY REGULATORY COMMISSION

Determination by Jurisdictional Agency Under the Natural Gas Policy Act of 1978

March 22, 1979.

On March 16, 1979, the Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Oil Conservation Division

FERC Control Number: JD79-747

API Well Number: None

Section of NGPA: 108

Operator: Trans Delta Oil & Gas Co. Inc.

Well Name: H. B. Browning B33 24N 1W

Field: So. Blanco

County: Rio Arriba

Purchaser: El Paso Natural Gas

Company

Volume: 7153 MMcf.

FERC Control Number: JD79-760

API Well Number: None

Section of NGPA: 108

Operator: Trans Delta Oil & Gas Co. Inc.

Well Name: H. B. Browning #3 L4 23N 1W

Field: So. Blanco

County: Rio Arriba

Purchaser: El Paso Natural Gas

Company

Volume: 4236 MMcf.

FERC Control Number: JD79-761

API Well Number: None

Section of NGPA: 108

Operator: Trans Delta Oil & Gas Co. Inc.
Well Name: Florence Millenbaugh #1
D18 23N 1W
Field: So. Blanco
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 2330 MMcf.

FERC Control Number: JD79-762
API Well Number: None
Section of NGPA: 108
Operator: Trans Delta Oil & Gas Co. Inc.
Well Name: E. J. Hooten #1 D12 24N 1W
Field: So. Blanco
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 5076 MMcf.

FERC Control Number: JD79-763
API Well Number: None
Section of NGPA: 108
Operator: Trans Delta Oil & Gas Co. Inc.
Well Name: Emma McDaniel N22 24N 1W
Field: So. Blanco
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 4443 MMcf.

FERC Control Number: JD79-764
API Well Number: None
Section of NGPA: 108
Operator: Trans Delta Oil & Gas Co. Inc.
Well Name: Martha Morelock L7 23N 1W
Field: So. Blanco
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 5647 MMcf.

FERC Control Number: JD79-765
API Well Number: None
Section of NGPA: 108
Operator: Trans Delta Oil & Gas Co. Inc.
Well Name: Morelock Unit 2
Field: South Blanco
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 22,000 MMcf.

FERC Control Number: JD79-766
API Well Number: None
Section of NGPA: 108
Operator: Manana Gas, Inc.
Well Name: Sullivan #1
Field: Farmington Undesignated
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 16 MMcf.

FERC Control Number: JD79-767
API Well Number: 2004522857
Section of NGPA: 108
Operator: Manana Gas Inc.
Well Name: Gigi #1

Field: Aztec Fruitland
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 19 MMcf.

FERC Control Number: JD79-768
API Well Number: None
Section of NGPA: 108
Operator: Manana Gas, Inc.
Well Name: Finch #1
Field: Aztec Fruitland
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 16 MMcf.

FERC Control Number: JD79-769
API Well Number: 300396220000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Johnston A #4
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 16.1 MMcf.

FERC Control Number: JD79-770
API Well Number: 30039072030000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 27-5 Unit 7
Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-771
API Well Number: 30045044310000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Hamilton Com E #9
Field: Ballard-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 5.5 MMcf.

FERC Control Number: JD79-772
API Well Number: 30039056980000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #57
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 3.0 MMcf.

FERC Control Number: JD79-773
API Well Number: 30045060710000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfanito Unit #16
Field: Ballard-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 11.7 MMcf.

FERC Control Number: JD79-774
API Well Number: 30045060040000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Huerfanito Unit #17
Field: Ballard-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 11.0 MMcf.

FERC Control Number: JD79-775
API Well Number: 30045121940000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Seymour Com A #2
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 10.0 MMcf.

FERC Control Number: JD79-776
API Well Number: 30045205570000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Gonsales Com #3
Field: Basin-Dakota Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-777
API Well Number: 300450826
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Texas Pacific Com #1
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 5.1 MMcf.

FERC Control Number: JD79-778
API Well Number: 30045082210000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Wood #1
Field: Aztec-Fruitland Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 7.0 MMcf.

FERC Control Number: JD79-779
API Well Number: 30045090580000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Seymour Com #1
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 3.7 MMcf.

FERC Control Number: JD79-780
API Well Number: 30039072310000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ28-5 Unit #15

Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 13.5 MMcf.

FERC Control Number: JD79-781
API Well Number: 30045056050000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: State A #1
Field: Ballard-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 4.0 MMcf.

FERC Control Number: JD79-782
API Well Number: 30039600440000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Canyon Largo Unit #47
Field: Ballard-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 11.3 MMcf.

FERC Control Number: JD79-783
API Well Number: 30039070540000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit #103
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 14.6 MMcf.

FERC Control Number: JD79-784
API Well Number: 30039069780000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit #53
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 16.1 MMcf.

FERC Control Number: JD79-785
API Well Number: 30039067780000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit #45
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-786
API Well Number: 30039067780000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit #45
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 12.0 MMcf.

FERC Control Number: JD79-786
API Well Number: 3004507430000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Wright A Com #1
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 17.5 MMcf.

FERC Control Number: JD79-787
API Well Number: 30045056280000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: State A Com #2
Field: Ballard-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 12.8 MMcf.

FERC Control Number: JD79-788
API Well Number: 30045083890000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Schultz Com A #5
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 9.1 MMcf.

FERC Control Number: JD79-789
API Well Number: 300456080000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Turner B Com F #11
Field: Ballard-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 6.6 MMcf.

FERC Control Number: JD79-790
API Well Number: 30039056330000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Evans #1
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 6.0 MMcf.

FERC Control Number: JD79-791
API Well Number: 30039078580000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ30-6 Unit #41
Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 14.2 MMcf.

FERC Control Number: JD79-792
API Well Number: 30039068420000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Johnston A Com D #10

Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 6.9 MMcf.

FERC Control Number: JD79-793
API Well Number: 30045100000000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Moncrief Com A #2
Field: Basin-Dakota Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 15.3 MMcf.

FERC Control Number: JD79-794
API Well Number: 30045114660000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: San Juan 32-9 Unit #58
Field: Blanco-Mesaverde Gas
County: San Juan
Purchaser: El Paso Natural Gas
Company
Volume: 8.0 MMcf.

FERC Control Number: JD79-795
API Well Number: 30039067680000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit 5
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 13.1 MMcf.

FERC Control Number: JD79-796
API Well Number: 30039206580000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit 198
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 19.0 MMcf.

FERC Control Number: JD79-797
API Well Number: 30039070630000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit #104
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 15.7 MMcf.

FERC Control Number: JD79-798
API Well Number: 30039068460000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Harvey A #1
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas
Company
Volume: 20.1

FERC Control Number: JD79-799
API Well Number: 30045093550000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Fuller #2
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 1.0 MMcf.

FERC Control Number: JD79-800
API Well Number: 30045081160000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Jordan #1
Field: Aztec-Fruitland Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 10.6 MMcf.

FERC Control Number: JD79-801
API Well Number: 30039208670000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-6 Unit 191
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 18.6 MMcf.

FERC Control Number: JD79-802
API Well Number: 300450055380000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Manrose #1
Field: Ballard-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 3.0 MMcf.

FERC Control Number: JD79-803
API Well Number: 30045082280000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Schultz Com B #6
Field: Aztec-Pictured Cliffs Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 15.7 MMcf.

FERC Control Number: JD79-804
API Well Number: 30039067770000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit 10
Field: Blanco, South Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79-805
API Well Number: 30045107700000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Bookhaven Com G #9

Field: Basin-Dakota Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 13.1 MMcf.

FERC Control Number: JD79-806
API Well Number: 30039209240000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 28-6 Unit 195
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 6.9 MMcf.

FERC Control Number: JD79-807
API Well Number: 30045111770000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 32-9 Unit #63
Field: Blanco Mesaverde Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 6.0 MMcf.

FERC Control Number: JD79-808
API Well Number: 30045111280000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 32-9 Unit #61
Field: Blanco-Mesaverde Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 11.0 MMcf.

FERC Control Number: JD79-809
API Well Number: 30039066780000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit 56
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 5.0 MMcf.

FERC Control Number: JD79-810
API Well Number: 30039067410000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit 55
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 3.7 MMcf.

FERC Control Number: JD79-811
API Well Number: 30045110590000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: SJ 32-9 Unit #57
Field: Blanco-Mesaverde Gas
County: San Juan
Purchaser: El Paso Natural Gas Company
Volume: 13.0 MMcf.

FERC Control Number: JD79-812
API Well Number: 30039074800000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: San Juan 29-7 Unit #32
Field: Blanco-Mesaverde Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 14.0 MMcf.

FERC Control Number: JD79-813
API Well Number: 30039067360000
Section of NGPA: 108
Operator: El Paso Natural Gas Company
Well Name: Rincon Unit 17
Field: Blanco, South-Pictured Cliffs Gas
County: Rio Arriba
Purchaser: El Paso Natural Gas Company
Volume: 7.7 MMcf.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-9861 Filed 3-30-79; 8:45 am]
BILLING CODE 6450-01-M

Requests for Adjustments Under Section 502(c) of the Natural Gas Policy Act of 1978

March 22, 1979.

Take notice that the interstate pipelines listed herein have filed requests under Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) for waiver of the tariff filing requirement embodied in § 281.104 of the Commission's rules implementing Title IV of the NGPA as set forth in the Commission's order of March 6, 1979, in Docket No. RM79-13. The requests for adjustment listed herein are on file with the Commission and open to public inspection.

The procedures applicable to the conduct of these Sections 502(c) adjustment proceedings are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24, issued March 22, 1979.

Any person desiring to be heard with reference to said waiver request should on or before March 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene in accordance with the Commission's Rules of Practice and Procedure (18 CFR § 1.41). No requests for extension of this time will be entertained. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

Name of applicant	Date of filing	Docket No.	Address
Granite State Transmission Company, Inc.	March 16, 1979	TC79-19	66 Market Street, Portsmouth, N.H. 03801.
Mountain Fuel Resources, Inc.	March 16, 1979	TC79-43	Suite 1540, 36 South State St., Salt Lake City, Utah 84111.
Pacific Gas Transmission Company	March 16, 1979	TC79-23	245 Market Street, San Francisco, Calif. 94105.
Consolidated Gas Supply Corp.	March 16, 1979	TC79-31	445 W. Main St., Clarksville, W. Va. 26301.
Columbia Gas Transmission Corporation	March 16, 1979	TC79-16	P.O. Box 1273, Charleston, W. Va. 25325.
Inland Gas Company	March 20, 1979	TC79-46	P.O. Box 1180, Ashland, Ky. 41101.
Mountain Fuel Supply Company	March 16, 1979	TC79-42	P.O. Box 11368, Salt Lake City, Utah 84139.
Northwest Pipeline Corporation	March 15, 1979	TC79-11	P.O. Box 1528, Salt Lake City, Utah 84110.
Valley Gas Transmission, Inc.	March 16, 1979	TC79-40	3200 Entrex Building, Houston, Tex. 77002.

[FR Doc. 79-9860 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Algonquin Gas Transmission Co.; Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

March 23, 1979.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on March 14, 1979, tendered for filing Substitute 47th Revised Sheet No. 10 and Substitute 48th Revised Sheet No. 10 to its FERC Gas Traiff, First Revised Volume No. 1.

Algonquin Gas states that Substitute 47th Revised Sheet No. 10 is being filed in substitution for 47th Revised Sheet No. 10 in order to reflect lower rates from Algonquin Gas' supplier, Texas Eastern Transmission Corporation ("Texas Eastern"), than were used in determination of the rates set forth in 47th Revised Sheet No. 10.

Algonquin Gas also states that such Substitute 47th Revised Sheet No. 10 complies with conditions in the Commission's March 2, 1979 order which accepted 47th Revised Sheet No. 10 for filing by reflecting the proper underlying supplier rates and reflects the elimination of any portion of increased costs included in the deferred account for February, 1979, which did not result from the Natural Gas Policy Act.

The proposed effective date of Substitute 47th Revised Sheet No. 10 is March 1, 1979.

Substitute 48th Revised Sheet No. 10 is being filed to reflect in the rates in 48th Revised Sheet No. 10 which was filed on March 2, 1979, proposed to be effective April 1, 1979, the effect of the revision in rates from Texas Eastern reflected in Substitute 47th Revised Sheet No. 10. 48th Revised Sheet No. 10 was filed to reflect the reduction in Federal Income Taxes from 48% to 46%.

The proposed effective date of Substitute 48th Revised Sheet No. 10 is April 1, 1979.

Algonquin Gas states that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP72-110 (PGA79-2)]

[FR Doc. 79-9862 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Colorado Interstate Gas Co., Application

March 23, 1979.

Take notice that on March 7, 1979, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79-205, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of gas with Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG requests authority to transport and exchange natural gas with Natural pursuant to a gas transportation and exchange agreement dated December 29, 1978. CIG also requests authority to transport and exchange gas that the parties may develop in the future or

acquire in proximity to the other party's existing or future pipeline system and that the parties mutually agree to connect by revision to Exhibit A of the agreement. CIG states that any new jurisdictional facilities required by CIG to implement initially this exchange would be constructed under budget authority. In order to keep the Commission advised of any changes that may occur under this authority, CIG proposes to file annually with the Commission, a revision to Exhibit A of the agreement identifying each delivery point and connected source of supply.

It is stated that CIG and Natural have, and expect to acquire in the future, supplies of gas which are remotely located from the acquiring party's pipeline system but in the vicinity of the other party's system. CIG indicates that it and Natural each have existing gas gathering and transportation facilities with sufficient capacity, or by constructing and installing additional facilities could develop sufficient capacity, to enable the transportation and exchange of supplies of gas available to the other party.

CIG anticipates receiving volumes of gas for the account of Natural at various points on CIG's pipeline system including, but not limited to, gas Natural would deliver to CIG from the Niobrara area of Colorado and the North Wild Rose, South Dines, and Red Desert (Lost Creek) areas of Wyoming. Additionally, CIG states that Mountain Fuel Supply Company (Mountain Fuel) would deliver gas to CIG for Natural's account from the Bonanza area of Utah, as more fully discussed in the application.

CIG states that the maximum daily volumes total 75,000 Mcf per day from Natural to CIG and 80,000 Mcf per day from CIG to Natural. It is stated that to the extent that actual volumes at the delivery points do not reach the specified maximum levels, additional gas could be taken at other mutually agreeable delivery points without

exceeding such levels. Natural's deliveries from the Niobrara area are estimated to be 24,100 Mcf per day during the first year of operation. It is asserted that in order to deliver the Niobrara area gas to CIG's pipeline at a point in Adams County, Colorado, it would be necessary for Natural to construct transmission, compression, and appurtenant facilities. It is stated that Natural has requested authorization for the construction of these facilities from the Commission.

CIG indicates that it expects to deliver gas to Natural at various locations as set forth in the agreement. CIG states that aggregate deliveries through the Amarex Meter Station, the Willis Meter Station, and from the Anadarko Deep area, plus other points the parties might mutually agree upon, will not exceed 80,000 Mcf per day, unless a greater volume is approved by the Commission pursuant to an amendment.

CIG states that balancing deliveries would initially be made at the Forgan Meter Station, an interconnection between the parties, located in Beaver County, Oklahoma. It is stated that the exchange would be on a thermally equivalent basis.

Natural, it is stated, would reimburse CIG for redelivery volumes delivered at a rate to reflect CIG's transmission system cost of service, including a reasonable return on investment, but exclusive of the cost of service attributable to its gathering and storage system and exclusive of the cost of gas attributable to gas used in the operation and maintenance of CIG's transmission system. It is indicated that the transportation rate initially would be 23.42 cents per Mcf for CIG's system. CIG would reimburse Natural for redelivery volumes delivered at a rate based on natural's jurisdictional cost of service allocated to transmission operations. It is stated that the initial rate would be 41.57 cents per Mcf.

CIG states that the agreement would remain in effect for a period of twenty years from the date of commencement of deliveries of gas by either party to the other. The receiving party may refuse to add any new points of delivery on its system after expiration of the twenty-year term, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the

Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-205]

[FR Doc. 79-9864 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Colorado Interstate Gas Co., Application

March 23, 1979.

Take notice that on March 9, 1979, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79-208 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale to, and exchange of natural gas with, Northwest Pipeline Corporation (Northwest), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Applicant has obtained control of certain new natural gas supplies in the Great Divide area in Moffat County, Colorado, from Sun Oil Company and Mr. Wayne Moore (an independent producer), which new gas supply is remote from Applicant's existing pipeline system. RMNG Gathering Company (RMNG), however, operates a 6-inch pipeline (the

Big Hole Lateral) which is in the proximity of Applicant's Great divide area supply. consequently, pursuant to the terms of a gas gathering and transportation agreement dated February 27, 1979, with Northwest, Northwest would install approximately 6 miles of line to deliver the gas to RMNG's Big Hole gathering facilities pursuant to its current budget authorization, and RMNG would redeliver, by displacement, thermally equivalent volumes of gas to Northwest's 26-inch pipeline at the Bar X compressor in Mesa County, Colorado. Northwest's 26-inch pipeline connects with Applicant's facilities at the Green River Interchange, it is stated.

As consideration for Northwest performing the proposed transportation service, Applicant proposes to sell to Northwest 25 percent of the gas that it deliver to Northwest, at the same average price that Applicant paid for such gas.

Applicant states that it would pay Northwest for those gathering costs attributable to Applicant's gas incurred from the wellhead to RMNG's pipeline on a cost-of-service basis, which cost is presently 16.81 cents per Mcf. Applicant further states that it would also pay to Northwest RMNG's cost of service attributable to the transportation of Applicant's gas through RMNG's Big Hole pipeline system, which cost is presently 14.3 cents per Mcf.

Northwest's roll-in system transmission charge is 20.69 cents per Mcf applicable to Applicant's share of gas delivered from Northwest's transmission system to the Green River interconnection, it is said. For all volumes transported by displacement to Green River, the cost is 50 percent of 20.69 cents or 10.35 cents per Mcf, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-206]

[FR Doc. 79-9865 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Columbia Gas Transmission Corp.; Application

March 23, 1979.

Take notice that on March 9, 1979, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP79-206 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and for permission and approval to abandon certain other natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Columbia proposes to construct and operate approximately 141.0 miles of new and replacement transmission pipeline, a 9,000 horsepower compressor station, a relocated measuring and regulating facility and the abandonment of five existing compressor stations. Columbia states that the proposed construction and abandonments are scheduled for the years 1979 through 1981. Columbia further states that the total cost of the project proposed herein would be \$46,220,700, which would be financed from internally generated funds and when necessary, by the sale of notes and/or common stock to the Columbia

Gas System, Inc., the parent company of Columbia.

Columbia states that the proposed construction and abandonment projects are as follows:

1979 Projects

None of the facilities proposed herein are scheduled for construction during 1979. However, upon receipt of regulatory authorization, site preparation for the Grant Compressor Station would be started.

1980 Projects

80-1A—The construction of 63.1 miles of 16-inch and 8.7 miles of 20-inch transmission pipeline located in Mingo, Logan, Lincoln and Cabell Counties, West Virginia.

80-1B—The construction of Grant Compressor Station comprised of 9,000 horsepower and appurtenances located in Mingo County, West Virginia.

80-1C—The construction of a measuring and regulating facility for a relocated point of delivery to Columbia Gas of West Virginia, Inc. located in Lincoln County, West Virginia.

80-1D—The construction of 1.0 mile of 8-inch interconnecting transmission pipeline and appurtenant regulating facility located in Logan County, West Virginia.

80-2—The construction of approximately 8.1 miles of 12-inch and 15.5 miles of 16-inch pipeline and related facilities replacing approximately 22.6 miles of 20-inch pipeline and 2 separate multiple line river crossings, one consisting of four 10- and 12-inch lines, each approximately 0.2 mile in length and the other consisting of five 10- and 12-inch lines, each approximately 0.6 mile in length, all located in Summers and Monroe Counties, West Virginia.

1981 Projects

81-1—The construction of 39.7 miles of 16-inch transmission pipeline and related facilities replacing a like amount of 20-inch pipeline in Monroe and Greenbrier Counties, West Virginia and Alleghany County, Virginia.

81-2—The construction of 4.9 miles of 8-inch transmission pipeline, in 3 sections, replacing approximately 4.1 miles of 20-inch pipeline in Mingo and Wyoming Counties, West Virginia.

81-3—Modification of facilities related to the abandonment of the compressor stations as proposed herein.

81-4—Abandonment of Huff Creek Compressor Station—2,480 horsepower and appurtenances located in Wyoming County, West Virginia.

81-5—Abandonment of Flat Top Compressor Station—3,200 horsepower

and appurtenances located in Summers County, West Virginia.

81-6—Abandonment of Gala Compressor Station—3,825 horsepower and appurtenances located in Botetourt County, Virginia.

81-7—Abandonment of Lexington Compressor Station—500 horsepower and appurtenances located in Rockbridge County, Virginia.

81-8—Abandonment of Bickers Compressor Station—3,200 horsepower and appurtenances located in Greene County, Virginia.

Columbia states that the proposed facilities are all related to the operation of that portion of Columbia's 20-inch pipeline system which extends in an easterly direction approximately 345 miles from Boldman Compressor Station in Pike County, Kentucky, to a point in Fairfax County, near Dranesville, Virginia. Columbia states that due to changing gas supply and market situations, the construction, operation and abandonments proposed herein constitute a more feasible means of utilizing its Appalachian production volumes than is possible under continued historic operation.

It is stated that Columbia LNG Corporation (Columbia LNG) either has or will file an application for a new point of delivery to Columbia and for authority to construct an interconnection between Columbia's 20-inch line and Columbia LNG's 36-inch line at the point where the two lines cross in Fairfax County, Virginia. Columbia states that the proposed construction, operation and abandonment of the facilities mentioned herein are dependent upon the authorization for the interconnection hereinbefore described.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-206]

[FR Doc. 79-9866 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Consolidated Gas Supply Corp.; Filing of Pipeline Refund Reports and Refund Plans

March 23, 1979.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D. C. 20426, on or before April 11, 1979. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

BILLING CODE 6450-01-M

APPENDIX

Filing date	Company	Docket No.	Type filing
Feb. 9, 1979	Consolidated Gas	RP72-157	Plan.
Feb. 21, 1979	Michigan Wisconsin	RP75-96	Report.
Mar. 5, 1979	South Georgia	RP61-5	Report.

[Docket No. RP72-157 et al.]

[FR Doc. 79-9867 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

El Paso Natural Gas Co., et al.; Extension of Time

March 22, 1979.

In the matter of El Paso Natural Gas Co. (Docket No. CP74-314), Northwest Pipeline Corporation (Docket No. CP76-327), and Sun Oil Company, et al. (Docket No. C177-526).

On March 8, 1979, respondents in this proceeding¹ filed a motion for extension of the briefing schedule on the initial decision issued February 20, 1979. The motion states that additional time is needed because of the complexity of the proceeding, the volume of the record and length of the initial decision, and the desire of respondents to coordinate their briefs to avoid duplicative submissions. The motion is opposed by complainants El Paso Natural Gas Company and Northwest Pipeline Corporation in an answer filed March 15, 1979. The answer agrees that some

extension is warranted, but objects to the proposed May 1, 1979 extension. The answer states that the Commission has been directed by the U.S. Court of Appeals for the Fifth Circuit to consider this proceeding "expeditiously." The answer further states that Commission Staff, the People of the State of California and the California Public Utilities Commission, Pacific Gas & Electric Company and Southern California Gas Company adopt the position expressed in the answer.

Upon consideration, notice is hereby given that an extension of time is granted to and including April 11, 1979, for the filing of briefs on exceptions.

¹ Atlantic Richfield Company, Tenneco Oil Company, Continental Oil Company, et al., Union Oil Company of California, Getty Oil Corporation, Sun Oil Company (Delaware), W. Watson LaForce, Jr., and F.H.N., Ltd.

Briefs opposing exceptions shall be filed on or before May 14, 1979.

Kenneth F. Plumb,
Secretary.

[Docket Nos. CP74-314, CP76-327, C177-526]

[FR Doc. 79-9868 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Equitable Gas Co.; Application

March 23, 1979.

Take notice that on March 9, 1979, Equitable Gas Company (Applicant), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP79-207 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon its Reed Compressing Station (Reed) in Lewis County, West Virginia, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant indicates that it owned and operated all facilities necessary to operate Reed as a compressing station through its predecessor Pittsburgh & West Virginia Gas Company, and that the transfer of these facilities, among others, was transferred to Applicant pursuant to authorization granted by the Federal Power Commission in Docket No. G-1586. Applicant states that the station, originally built to pump local field gas, was converted in 1930 to relay transmission gas. Transmission is no longer necessary due to the abandonment of a delivery point at Cedarville, West Virginia by Columbia Gas Transmission Corporation, it is said. Applicant states that the station would be separated from the site or abandoned in place.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas

Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-207]

[FR Doc. 79-9869 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

J&W Refining, Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

March 23, 1979.

Take notice that J&W Refining, Inc. on March 6, 1979 filed a Petition for Review under 42 U.S.C. § 719(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before April 9, 1979 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection

at Room 1000, 825 Northern Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[Docket No. RA79-16]

[FR Doc. 79-9870 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Long Beach, Calif.; Filing of Petition for Review Under 42 U.S.C. 7194

March 23, 1979.

Take notice that City of Long Beach on February 27, 1979 filed a Petition for Review under 42 U.S.C. § 719(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before April 9, 1979 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[Docket No. RA79-17]

[FR Doc. 79-9863 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Lunday-Thagard Oil Co.; Filing of Petition for Review Under 42 U.S.C. 7194

March 23, 1979.

Take notice that Lunday-Thagard Oil Co. on March 5, 1979 filed a Petition for Review under 42 U.S.C. § 719(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or

before April 9, 1979 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[Docket No. RA79-19]

[FR Doc. 79-9871 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Metropolitan Edison Co.; Compliance Filing

March 23, 1979.

Take notice that the Metropolitan Edison Company on February 19, 1979, tendered for filing pursuant to paragraph (E) of the Commission's Order of January 12, 1979, substitute rate sheets reflecting use of a 46 percent federal income tax rate as follows:

Fourth Revised Sheet No. 13, Rate RP
Fourth Revised Sheet No. 15, Rate RT
Supplement 16 to Rate Schedule FPC No. 43—
Supplemental Power & Energy
Supplement 18 to Rate Schedule FPC No. 43—
Wheeling of Authority Power

Metropolitan Edison also filed an indexed set of cost supporting schedules.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before April 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. ER79-58]

[FR Doc. 79-9872 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

**Michigan Wisconsin Pipe Line Co.;
Certification of Settlement Agreement**
March 23, 1979.

Take notice that on February 7, 1979, the Presiding Administrative Law Judge certified to the Commission the proposed settlement agreement in this proceeding.

This proceeding was instituted pursuant to the Commission's October 27, 1978 order accepting for filing, suspending and setting for hearing the company's proposed purchased gas adjustment rate increase. At issue were the prices paid for certain sixty-day emergency purchases of natural gas.

The motion of Michigan Wisconsin Pipe Line Company for certification of a "Stipulation and Agreement in Settlement of Rate Proceeding" was filed on February 1, 1979 and forms the basis for the settlement agreement. Under the agreement, Michigan Wisconsin agrees to recover in rates \$24,025 out of total emergency purchases of \$36,024 paid in excess of rates prescribed in Opinion No. 770-A. The Unrecovered Purchased Gas Costs Account No. 191 will be reduced by \$12,000 to reflect the adjustment, to become effective when the Stipulation and Agreement is finally approved and is no longer subject to appeal.

Any person desiring to be heard or to protest the settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before March 30, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the settlement agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP73-14 (PGA78-3) (DCA 78-2)]

[FR Doc. 79-9873 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

**Mid Louisiana Gas Co.; Filing of Revised
Tariff Sheets**

March 26, 1979.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on March 14, 1979, tendered for filing as a part of First Revised Volume No. 1 of its FERC Gas Tariff, Substitute Original Sheet Nos. 26e and 26f.

The proposed tariff pages set forth the procedure by which Mid Louisiana will calculate the impact of the Louisiana First Use Tax to become effective April 1, 1979. Mid Louisiana states that the substitute tariff pages are necessary to comply with the "corporate undertaking procedure" as enumerated in Commission Order No. 10-B, but that

these changes will not affect the computation of the First Use Tax Surcharge submitted earlier. Copies of the filing have been served on interested customers and state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before March 28, 1979. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-32]

[FR Doc. 79-9878 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

**Montana-Dakota Utilities Co.; Petition To
Amend**

March 26, 1979.

Take notice that on March 12, 1979, Montana-Dakota Utilities Co. (MDU), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP77-624, a petition to amend the order issued August 14, 1978 in said docket, as amended, pursuant to Section 7(c) of the Natural Gas Act, to reflect a revised contract for a two-year term and deleting the requirement that the use of the gas purchased must be restricted to the State of Montana, and to propose an additional delivery point for the receipt of the gas, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

MDU states that it filed an application with the Commission on September 20, 1977 seeking authorization to construct and operate certain gas receipt and appurtenant facilities which are necessary in order to allow MDU to take into its system, significant quantities of gas to be purchased by MDU from the Montana Power Company (Montana Power). It is stated that the agreement between MDU and Montana Power provided for the purchase by MDU of up to 2,500,000 Mcf of gas between March 1 and November 30 of each year, with a sale of 250,000 Mcf during the period between December 1 of each year through the last day or February in the following year. MDU indicates that the

term of this agreement was to commence October 1, 1977 to and including the last day of February 1983. MDU further states that the maximum quantity of gas purchased would have been 13,750,000 Mcf.

It is asserted that the agreement contained a condition stating that all of the gas purchased by MDU from Montana Power was to be consumed within the State of Montana and the sale and purchase would take place only if all four state commissions involved approved the transaction. MDU states that the Wyoming Public Service Commission (Wyoming PSC) did not approve the transaction which voided the agreement. MDU further states that it is still in curtailment and still needs all of the gas it can purchase for its interstate system and that, therefore, MDU and Montana Power have entered into a new agreement dated February 2, 1979, which provides for a two year contract term and a maximum quantity of gas to be received of 5,500,000 Mcf. The restriction that the gas must be utilized in Montana has been eliminated also, it is stated.

MDU states that the new agreement provides for two delivery points, one near Belfry, Montana, and an optional delivery point on MDU's Worland to Cabin Creek line near Warren, Montana, as more fully described in the application.

There is an existing station and an interconnection with the Montana Power system at the added delivery point near Warren, Montana, states MDU. MDU indicates that no new facilities would be constructed and that it would not be required to install the check valves as proposed in the original application.

MDU asserts that with the above exceptions, all other conditions remain the same.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[Docket No. CP77-624]

[FR Doc. 79-9875 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

National Gas Supply Corp.; Applications

March 23, 1979.

Take notice that on March 9, 1979, National Fuel Gas Supply Corporation (Applicant), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP79-211 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to render an underground gas storage service for Central Hudson Gas & Electric Corporation (Central Hudson), Connecticut Natural Gas Corporation (CNG), Delmarva Power & Light Company (Delmarva), Elizabethtown Gas Company (Elizabethtown), Lowell Gas Company (Lowell), Orange and Rockland Utilities, Inc. (O & R) and UGI Corporation (UGI) for the period April 1, 1979 through March 31, 1980, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has rendered one-year limited term best efforts storage service to non-affiliated customer utilities in each storage year commencing 1975-1976 through the storage year which will end March 31, 1979 in varying amounts not exceeding 9,131,000 Mcf annually. Applicant further states that it proposes to continue this service for an additional storage year ending March 31, 1980 in the aggregate amount of 9,131,000 Mcf of natural gas.

It is stated that in August of 1976, Applicant joined with Natural Gas Storage Corporation (Storage) in requesting authorization necessary for Storage to acquire from Applicant, and to develop and operate facilities to provide underground gas storage service to non-affiliated customer utilities on a long-term basis commencing in the storage year 1978-1979.

Supply requests permission to provide an additional one year term of interim service to gas distribution companies in all or part of the quantities in which service through Storage was requested to have been provided as set forth in Schedule B of Exhibit 18 in Docket No. CP76-492.

Applicant states that the proposed storage service would commence on April 1, 1979 and terminate on March 31,

1980. Applicant indicates the volumes for each customer are as follows (all volumes in Mcf):

Customer	Top storage capacity*	Maximum injection per day**	Maximum withdrawal per day**
Central Hudson.....	20,000	1,333	1,333
CNG.....	1,000,000	6,667	6,667
Delmarva.....	450,000	3,000	3,000
Elizabethtown.....	1,500,000	10,000	10,000
Lowell.....	2,000,000	13,333	13,333
O & R.....	1,000,000	6,667	6,667
UGI.....	2,981,000	19,873	19,873
Total.....	9,131,000	60,873	60,873

* Includes any volumes remaining in storage as of March 31, 1979 from 1978-1979 interim storage service.

** Maximum injection and withdrawal volumes are to be achieved on a best efforts basis, in its sole discretion. Applicant may exceed such volumes upon customer request.

It is asserted that the charge for the proposed service would be \$0.4077 per Mcf of top storage capacity.

Applicant states that the volume of storage service proposed to be rendered by Applicant is identical to service rendered in the 1978-1979 storage year. This level of service continues to be made possible through a temporary reduction in gas requirements in the retail area served by Applicant's affiliate, National Fuel Gas Distribution Corporation (Distribution), it is stated.

It is indicated that each customer company has asserted to Applicant that it would have gas supplies available to inject into storage during the 1979 injection season. Applicant states injections must commence early in the season to allow customers the opportunity to inject the full amount of volumes to be husbanded and to afford a measure of flexibility in scheduling deliveries to storage.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal

Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-211]

[FR Doc. 79-9876 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Natural Gas Pipeline Co. of America; Application

March 23, 1979.

Take notice that on March 7, 1979, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP79-204 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas between Applicant and Colorado Interstate Gas Company (CIG), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

It is asserted that Applicant and CIG each have or expect to have supplies of gas which are remotely located from the acquiring party's pipeline system but which may be located in the vicinity of the other party's pipeline system. Applicant and CIG each have existing gas gathering and transportation facilities with sufficient capacity or could, by constructing and installing certain additional facilities, develop sufficient capacity to enable such party to accept and transport and exchange the supplies of gas available to the other party, it is asserted. Accordingly, Applicant states that it and CIG have entered into an exchange and transportation agreement, dated December 29, 1978, whereby either party would accept and transport, and if necessary gather, the supply of gas which is available and which may

become available to the other party from sources of supply as identified in the agreement.

Applicant requests authorization to transport and exchange up to an aggregate volume of 80,000 Mcf per day of gas received for the account of CIG at various points on Applicant's pipeline system, including but not limited to, the Willis and Amarex Meter Stations located in Wheeler County, Texas, and at such points in the Anakarko Deep Area of Wheeler County, Texas and Beckham County, Oklahoma, as may be added in the future as set forth in the agreement. CIG, it is stated, anticipates deliveries to Applicant of approximately 10,500 Mcf per day for the first year of operation at the Willis and Amarex Meter Stations. Applicant requests that it be authorized to attach to its system such new sources of gas supply, providing the actual deliveries of gas from such new sources would not increase the aggregate delivery of gas to Applicant from CIG to a volume in excess of 80,000 Mcf per day.

It is stated that the authorization requested above for transportation and exchange of gas for CIG and the addition of delivery points from any sources of gas which become subject to the agreement, would permit the timely connection of volumes of gas available to CIG and obviate the need for seeking amendments to the certificate authorization requested herein each time new sources of supply become available to each party and new delivery points of gas between the parties are added. Applicant, in order to keep the Commission apprised of the changes that may occur herein, proposes to submit annually, in compliance with Part 154 of the Regulations, a revised Exhibit "A" to the Agreement detailing volumes and delivery points for existing and added sources of gas as a part of its FERC gas Tariff.

It is said redeliveries by each party to the other would initially be made at an existing interconnection located at the Forgan Meter Station in Beaver County, Oklahoma, where CIG currently makes substantial deliveries to Applicant. Deliveries to Applicant may be increased or decreased, as appropriate, to achieve required redelivery volumes, it is indicated. The Agreement contains provision for redeliveries to be made at the proposed Cheyenne pipeline interconnection in place of Forgan at such time as service is initiated pursuant to authorization requested in the Trailblazer Project in Docket No. CP79-80, it is stated.

Applicant states that it would charge CIG a transportation charge equal to the

product of the redelivery volume delivered to CIG during a month and a transportation rate per Mcf based on Applicant's jurisdictional cost of service allocated to transmission operations. It is stated that the initial rate will be 41.57 cents per Mcf. Applicant would also adjust the volumes of gas redelivered to reflect unaccounted for gas, but not to exceed 0.5 percent of redelivery volumes, it is indicated.

Applicant proposes to utilize its then effective gas purchase facilities budget-type authorization to construct any gas supply facilities necessary to deliver its gas to CIG's facilities, or to connect to its system, facilities for the receipt of CIG's gas, unless such facilities exceed the single project budget limit at which time Applicant would file a separate application.

Applicant indicates that the agreement would remain in effect for a term ending twenty years from the date of commencement of deliveries of gas by either party to the other. The receiving party may refuse to add any new points of delivery on its system after expiration of the twenty-year term, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1. or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-204]

[FR Doc. 79-9877 Filed 3-30-79 8:45 am]

BILLING CODE 6450-01-M

Natural Gas Pipeline Co. of America; Proposed Changes in FERC Gas Tariff

March 26, 1979.

Take notice that on March 15, 1979, Natural Gas Pipeline Company of America, (Natural) tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. Natural states that the proposed changes will make effective Substitute Original Sheet No. 149.

Natural states that Substitute Original Sheet No. 149 was submitted pursuant to the provisions of Section 154.38(h) of the Commission's Regulations as amended by Order No. 10-B, Docket No. RM78-23, issued March 2, 1979. The substitute tariff sheet reflects the adoption of a corporate undertaking procedure in place of the escrow procedure initially submitted as part of the Company's temporary tariff clause to recover the Louisiana First Use Tax which will become effective April 1, 1979.

Natural states that the election of the corporate undertaking procedure and its assumption of the obligations entailed thereby, were made subject to its right to pursue review of Order Nos. 10-A and 10-B in court, and subject to a final non-appealable court determination that the procedure prescribed by the Commission for recovery of First Use Tax costs is lawful.

A copy of this filing has been mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-38]

[FR Doc. 79-9878 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Northern Natural Gas Co.; Application

March 26, 1979.

Take notice that on March 12, 1979, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain sales measuring facilities necessary to upgrade and consolidate the Des Moines TBS No. 8 and TBS No. 1-B sales measuring stations located in Polk County, Iowa, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it presently operates the above mentioned measuring stations through which natural gas is delivered to Iowa Power and Light Company (Iowa Power) for resale and distribution in the suburban Johnston area adjoining Des Moines, Iowa.

Applicant states that measuring station TBS No. 8, located in NE/4 SE/4, Section 6, Township 79N, Range 24W, Polk County, Iowa is utilized to measure and deliver volumes of gas to the Polk County Garage and is used on occasion by Iowa Power to back feed gas into the distribution system during periods of peak demand. Measuring station TBS No. 1-B, which is located in SW/4 NW/4 of Section 6 is utilized to measure and deliver volumes of gas for suburban Johnston area, northwest of Des Moines. Applicant states both measuring stations have been in operation for some time and are obsolete and in need of replacement. Applicant further states that it is desirable from an operating standpoint that these stations be consolidated.

It is stated that the consolidation and upgrading of the station facilities proposed herein, would provide more accurate measurement of certificated gas volumes and would not result in a change of natural gas service to Iowa Power.

Applicant estimates the cost of the proposed upgrading to be \$102,365,

which would be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-213]

[FR Doc. 79-9879 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Northwest Pipeline Corp.; Petition To Amend

March 26, 1979.

Take notice that on March 8, 1979, Northwest Pipeline Corporation (Northwest), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP77-507 a petition to amend the Commission's order issued September 30, 1977, in said docket pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) so as to authorize an extension of time until

March 31, 1979, for the completion of the 1978 budget-type construction of the Moxa Arch Trunk A and Seven-Mile Gluch #1 well connection and an increase in Northwest's single-project cost limit from \$1,500,000 to the actual final cost approximately \$1,700,000 of the construction of the Moxa Arch gathering system, all as more fully set forth in the petition to amend.

Northwest states that the order of March 31, 1979, authorized the construction, during calendar year 1978, and the operation of certain budget-type gas purchase facilities which would enable Northwest to connect the wells of producers or similar sellers with Northwest's system. Northwest indicates that the Commission limited the expenditures for the construction of the facilities to a total cost of \$10,500,000, with no single project cost to exceed \$1,500,000.

Northwest asserts that it proceeded with the construction of the gathering facilities in accordance with the Commission order and that construction was scheduled to be completed in December 1978. It is stated that the major portion of the project was completed by January 1, 1979, but that due to the unusually severe winter weather experienced in southeastern Wyoming, which critically hampered the final phase of construction and testing, the gathering system will not be operational until late March 1979. Northwest states that it originally estimated the cost of the project to total approximately \$1,495,000, including contingencies. It is stated, however, that the cost of completing the project has increased to \$1,683,799. Northwest states that the original estimate was based on the assumption that normal weather conditions would prevail during the construction period and that the required river crossing would be a typical one. Northwest states that after a closer examination of the river crossing involved in this project, it was felt that in order to ameliorate potential erosion problems, the river crossing should be lengthened by approximately 100 feet at an additional expense of \$45,000.

Northwest indicates that the construction delays accounted for increased costs in labor, overhead and interest and that the weather conditions necessitated the purchase of a much larger volume of methanol, for use in the hydrostatic testing of the pipeline than originally planned.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 16, 1979, file with the Federal Energy

Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulation under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[Docket No. CP77-507]

[FR Doc. 79-9860 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Osro Cobb; Filing of Petition for Review Under 42 U.S.C. 7194

March 23, 1979.

Take notice that Phillips Petroleum Company on February 15, 1979 filed a Petition for Review under 42 U.S.C. § 719(b) (1977 Supp.) from an order of the Secretary of Energy.

Copies of the petition for review have been served on the Secretary, Department of Energy, and all participants in prior proceedings before the Secretary.

Any person desiring to be heard with reference to such filing should on or before April 9, 1979 file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8.). Any person wishing to become a party or to participate as a party must file a petition to intervene. Such petition must also be served on the parties of record in this proceeding and the Secretary of Energy through Gaynell C. Methvin, Deputy General Counsel for Enforcement, Department of Energy, 12th and Pennsylvania Ave., N.W., Washington, D.C. 20461. Copies of the petition for review are on file with the Commission and are available for public inspection

at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,
Secretary.

[Docket No. RA79-18]

[FR Doc. 79-9881 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Sea Robin Pipeline Co.; Filing of Revised Tariff Sheets

March 26, 1979.

Take notice that on March 15, 1979, Sea Robin Pipeline Company (Sea Robin) tendered for filing as a part of its FERC Gas Tariff, Original Volume No. 1, Substitute Original Sheet Nos. 10 and 11 to become effective on April 1, 1979.

These tariff sheets are being filed pursuant to Commission Order No. 10-B and have been revised to delete the provisions for escrow of amounts collected pursuant to the First Use Tax Adjustment.

Copies of this filing are being mailed to Sea Robin's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before March 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-45]

[FR Doc. 79-9882 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., and East Tennessee Natural Gas Co.; Motion

March 26, 1979

Take notice that on March 12, 1979, Stauffer Chemical Company, P.O. Box 472, Mount Pleasant, Tennessee 38474, filed in Docket No. CP76-322 a motion pursuant to Section 1.12 of the Commission's Rules of Practice and Procedure (18 CFR 1.12) requesting that certain end-use restrictions in the certificate of public convenience and necessity granted by the order issued June 30, 1976, in said docket pursuant to

Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) be waived or otherwise deleted, all as more fully set forth in the motion which is on file with the Commission and open to public inspection.¹

Stauffer states that the order of June 30, 1976, authorized Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), and East Tennessee Natural Gas Company (East Tennessee) to transport up to 1,700 Mcf of gas per day for use at Stauffer's plants at Mount Pleasant, Tennessee. It is indicated that those plants produce, among other things, pesticides and other agricultural chemical products and that said order provides that the gas transported could be used only for process or plant protection purposes in accordance with the general requirement that volumes transported under Section 2.79 be used only to replace curtailed high priority volumes. Stauffer states that it is not at the present time using natural gas other than for process or plant-protection requirements lacking alternate fuel capability while it is taking gas under the authorization granted June 30, 1976, as extended. It is further stated that Stauffer is burning approximately 13,600 gallons of No. 2 fuel oil per day in equipment with installed alternate fuel capability at Mount Pleasant and that if there were no end-use restrictions applicable to the gas transported pursuant to Section 2.79, Stauffer could use such gas, plus pipeline supplies, to meet its overall needs.

Stauffer asserts that partially in response to the drastically changed natural gas supply situation for the interstate market and partially in response to the severely restricted supply of petroleum products, the Department of Energy has now urgently requested that existing facilities which have the ability to consume either oil or gas consume gas. It is asserted that to enable Stauffer to comply with a request of the Department of Energy to use natural gas rather than oil in equipment that has dual-fuel capability while it is receiving gas transported under authorization granted pursuant to Section 2.75 of the Commission's Rules, it would be necessary that the end-use

¹ This proceeding was commenced before the Federal Power Commission (FPC). By the joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Federal Energy Regulatory Commission (FERC). The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

restrictions contained in the order of June 30, 1976, be waived or deleted.

Any person desiring to be heard or to make any protest with reference to said motion should on or before April 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-322]

[FR Doc. 79-9883 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Application

March 23, 1979.

Take notice that on March 7, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-203 an application pursuant to Section 7(c) of the Natural Gas Act for limited term certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Natural Gas Pipeline Company of America (Natural), United Gas Pipe Line Company (United), Southern Natural Gas Company (Southern) and Trunkline Gas Company (Trunkline), hereinafter also called Shippers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Shippers are completing certain long-term arrangements to provide for the receipt of volumes of gas produced at the East Cameron 281 "B" platform and allocated to them, pursuant to certain gas purchase agreements of volumes of gas produced from the West Cameron Block 533 Field, offshore Louisiana, as established in unit plans entered into by the producers of Shippers and of Applicant, pursuant to an order issued in March 1978 by the U.S. Geological Service.

Applicant requests authorization to transport gas made available to it, for

the account of Shippers at the existing point of delivery to Applicant at the East Cameron Block 281 "B" platform, pursuant to a gas transportation agreement between Applicant and Shippers dated February 26, 1979. It is stated that the agreement provides that Applicant would accept such quantity of gas as Shippers make available to Applicant at such point.

Applicant states that volumes of gas equal to those received by it would be transported through existing facilities and redelivered to Shippers by Applicant at the following existing onshore points of delivery:

a. For the account of Trunkline, such shall be at an existing point on Applicant's Kinder-Sabine pipeline 2.49 miles west of Applicant's Compressor Station No. 823 near Kinder, Louisiana, in Jefferson Davis Parish.

b. For the account of United, such shall be at an existing point of interconnection at Centerville, Louisiana.

c. For the account of Southern, such shall be at an existing point of delivery at the downstream side of Applicant's existing meter located at the tailgate of the Placid Oil Company operated Patterson Gasoline Plant or at the upstream side of Southern's meter located at the tailgate of such plant in Section 48, Township 15 South, Range 11 East, St. Mary Parish, Louisiana.

d. For the account of Natural, such shall be at an existing point of interconnection in Wharton County, Texas.

and/or at other mutually agreeable existing points where gas can be delivered by Applicant for the account of a Shipper.

The charge to be paid by each Shipper to Applicant would consist of 5.48 cents per Mcf delivered by each Shipper to Applicant. Additionally, Shippers would provide to Applicant, at no cost, a daily volume of gas for Applicant's system fuel and uses equal to one and eight tenths percent of the volume received from each Shipper on any day.

Applicant indicates that the term of the agreement shall commence on the date of delivery of the gas continuing until October 31, 1979 or until Applicant takes delivery of production from East Cameron Block 280, whichever last occurs.

Applicant asserts that it has sufficient capacity available to enable it to render the proposed transportation service for a limited-term without the need for any additional facilities.

Applicant states that the proposed service would be beneficial to Shippers

in that it would make available immediately to their respective systems supplies of natural gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[Docket No. CP79-203]

[FR Doc. 79-9884 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Texas Eastern Transmission Corp.; Compliance Filing

March 23, 1979

Take notice that on March 14, 1979, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing several revised tariff sheets to Fourth Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff, which are proposed to be effective March 1, 1979. Texas Eastern states that these sheets are being filed in compliance with the terms of Opinion

No. 21, issued August 9, 1978 as modified by Opinion No. 21-A issued February 16, 1979 in this docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 30, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP74-41]

[FR Doc. 79-9885 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

United Gas Pipeline Co.; Filing of Revised Tariff Sheets

March 26, 1979

Take notice that on March 15, 1979, United Gas Pipeline Company (United) tendered for filing as a part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Original Sheet Nos. 74-N and 74-O to become effective on April 1, 1979.

These tariff sheets are being filed pursuant to Commission Order No. 10-B and have been revised to delete the provisions for escrow of amounts collected pursuant to the First Use Tax Adjustment.

Copies of this filing are being mailed to United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before March 28, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[Docket No. RP79-44]

[FR Doc. 79-9886 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Willamette Industries, Inc.; Petition for Declaratory Hearing

March 23, 1979.

Take notice that on March 5, 1979, Willamette Industries, Inc. (Willamette), P. O. Drawer 1100, Ruston, Louisiana 71270, a direct industrial customer of Arkansas Louisiana Gas Company (Arkla), filed in Docket No. TC79-9 a petition pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for an order declaring that Arkla may transfer the geographical location at which Arkla delivers certain of Willamette's natural gas requirements from Haynesville, Louisiana, to Emerson, Arkansas, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is indicated that Willamette owns and operates a veneer plant in Haynesville where natural gas is used in a veneer dryer. Arkla supplies the natural gas requirements of the Haynesville plant under a contract, dated November 1, 1976, and the gas is delivered to Willamette by Arkla's distribution system at Haynesville. Under Arkla's curtailment plan, Willamette's base period entitlement of 565 Mcf per day for the veneer dryer at Haynesville is classified in priority 2, it is said. Willamette states that it also has certain boiler fuel requirements at Haynesville for which it has installed alternate fuel capability and that the boiler fuel requirements of 135 Mcf per day are classified in Priority 3. It is stated that Willamette also owns and operates a sawmill at Emerson, Arkansas, approximately 6 miles north of Haynesville, which uses natural gas in a lumber kiln and other miscellaneous heating equipment. The Emerson plant is served directly by Arkla under a contract dated May 31, 1978, for up to 300 Mcf per day which is classified in Priority 2, it is indicated.

Willamette states that it plans to build a plywood plant at Emerson and to use the gas previously employed in the lumber kiln there in a veneer dryer similar to the one at Haynesville; accordingly, in order to consolidate its operations in the Emerson-Haynesville

area, Willamette proposes to move the veneer-drying operations previously conducted at Haynesville to the nearby Emerson plant site. To undertake the consolidation, Willamette states that it would need to take at Emerson the natural gas requirements for veneer-drying that are now taken at Haynesville. Willamette asserts that the move would not affect its curtailment entitlements or otherwise affect other customers served by Arkla.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 16, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[Docket No. TC 79-9]

[FR Doc. 79-9887 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

Availability of Environmental Impact Statements Filed with EPA for the Period of March 19-23, 1979

AGENCY: Office of Federal Activities, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations. (40 CFR 1506.9)

PERIOD COVERED: This Notice includes EIS's filed during the week of March 19 to March 23, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from March 30, 1979 and will end on May 14, 1979. The 30-day wait period for final EIS's will be computed from the date of receipt by EPA and commenting parties.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Federal Activities, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Federal Activities, A-104, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202) 755-0780.

SUMMARY OF NOTICE: Appendix I sets forth a list of EIS's filed with EPA during the week of March 19 to March 23, 1979, the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the *Federal Register* and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

William D. Dickerson,
Acting Director, Office of Federal Activities.

Dated: March 28, 1979.

Appendix I

EIS's Filed With EPA During the Week of March 19 to 23, 1979

Department of Agriculture

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447-3965.

Forest Service

Draft

Upper Arkansas Planning Unit, Pike & San Isabel N.F., several Counties in Colorado, March 23: Proposed is a land management plan for the upper Arkansas Planning Unit of the Pike and San Isabel National Forests in the Counties of Chaffee, Fremont, Lake, Park and Saquache Counties, Colorado. The Unit consists of approximately 1,199,450 acres of which 813,060 acres are National Forest System lands. The plan provides for: developed recreation, 3,130 acres of wildlife habitat, 12,560 AUM of domestic livestock grazing, 1,000,000 board feet of wood products, and 591,000 acre feet of water. The plan also provides for: roadless areas, wilderness areas, and historical sites. (USDA-FS-DES-02-12-79-01.) (EIS Order No. 90304.)

Department of Commerce

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.

Nat'l Oceanic and Atmospheric Admin.

Draft

Delaware Coastal Zone Management Program (CZM), State of Delaware, March 3: Proposed is a coastal zone management program for the State of Delaware. The program addresses the issues of port development, maintenance dredging, offshore OCS development, oil spills, shoreline erosion, recreation and protection of fragile coastal resources. The program will condition, restrict or prohibit some uses in parts of the coastal zone, while encouraging development and other uses in other parts. (10-03-79-01-03.) (EIS Order No. 90303.)

Final Supplement

Trawl Fisheries, PMP, WAS/ORE-CAL, Washington, Oregon, California, March 21: The proposed action summarizes the changes in the Preliminary Fishery Management Plan (PMP), as amended, for the 1979 foreign fishing season and supplements the final EIS filed in January 1977. Under the amendment, the Total Allowable Catch (TAC) for Pacific Hake will be 198,900 metric tons and for Jack Mackerel will be 55,000 metric tons. Twenty percent of the Hake TAC is set aside in reserve; the Estimated Domestic Harvest

(DAH) is 50,000 M.T. of Hake, and The Allowable Level of Foreign Fishery (TALFF) for Hake is 109,120 M.T. for the Jack Mackerel Fisheries, DAH is estimated to be 55,000 M.T. Comments made by: STAT State Agencies Groups and Businesses (EIS Order No. 90298.)

Final Supplement

Bowhead Whale, deletion of native exemption, Alaska, March 23: This statement supplements a final EIS filed in October 1977. Proposed is the implementation of an amendment to the convention to regulate whaling, 1946 by amending regulations governing the taking of Bowhead Whales by Indians, Aleuts or Eskimos for subsistence purposes which allocated the 1979 quota to 18 whales landed or 27 struck, whichever occurs first. The alternatives considered are: 1) Federal regulations establishing a fixed village by village quota allocation, 2) No quota allocation by village, allowing competition until the 1979 quota is reached, and 3) Determination of quota by the Alaskan Eskimo Whaling Commission. Comments made by: DOU, DLAB, individual. (EIS Order No. 90307.)

The above final supplement 30-day review period has been waived.

Salmon Fisheries, FMP, OR, WA, CA, (S-1), California, Washington, Oregon, March 21: This statement supplements a final EIS filed in March 1978. Proposed is the amendment of the Fishery Management Plan (FMP) for commercial and recreational salmon fisheries off the coasts of Washington, Oregon and California commencing in 1978 and 1979 with change. Management measures will be more restrictive on ocean harvests in light of the latest data and stock assessments which indicate that many of the 1979 salmon runs are severely depressed. Proposed amendments include the deletion of section 10.5 and replacement of sections 13.5 and 13.6. Comments made by: USCG, EPA, DOI, State agencies. (EIS Order No. 90297.)

U.S. Army Corps of Engineers

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, (202) 693-6795.

Final

Sand Island Shore Protection Plan, Oahu, Honolulu County, March 20: Proposed is a shore protection plan for the protection from erosion of the Sand Island shoreline located at the mouth of the Honolulu Harbor, off the coast of Oahu Island, Hawaii. The recommended permeable sloping stone revetment will protect the 2,100-foot eroded shoreline utilizing 11,000 cubic yards of stone. Other alternatives which were considered included: 1) bulkheads, 2) offshore breakwaters, 3) shoreline management, 4) vegetative barriers, and 5) no action. (Honolulu District.) Comments made by: DOI, USDA, DOT, EPA, DOC, HUD, State and local agencies, groups. (EIS Order No. 90289.) Yellowstone and Tongue Rivers, Flood Protection, Custer County, Mont., March 21: This action involves the local protection

project on the Tongue and Yellowstone Rivers at Miles City, in Custer County, Montana. The plan of improvement for flood protection of Miles City includes a levee and appurtenances located along the right banks of the Tongue and Yellowstone Rivers. The proposed levee project would start on the right bank of the Tongue River approximately 1,000 feet upstream of Interstate 94 embankment, south of the City, and extend downstream along the right banks of the Tongue and Yellowstone Rivers to the embankment of the railroad tracks north of the City. The levee would be approximately 26,990 feet in length. (Omaha District.) Comments made by: DOI, DOT, HUD, USDA, DOC, EPA, State and local agencies. (EIS Order No. 90294.)

Draft Supplement

Portland Harbor Maintenance Dredging, Fore River, Maine, March 23: This statement supplements a draft EIS filed January 1977 concerning the maintenance dredging of Portland Harbor off the Fore River, Maine. This document discusses disposal sites for the 850,000 cubic yards of sediment which must be removed to bring the channel to the authorized maintenance depth and width. The disposal site being studied is located just beyond the 3 mile limit of the territorial sea. (New England Division.) (EIS Order No. 90286.)

East Rockaway Inlet, Erosion Control, Jamaica Bay, New York, March 21: This statement supplements a final FIS filed in February 1974 concerning beach erosion control along the Atlantic coast of New York City from East Rockaway Inlet to Rockaway Inlet and Jamaica Bay, New York. The statement concerns the westernmost portion of the project which has not achieved the designed shore protection. The plan includes the construction of a terminal stone groin and the placement of sand-fill around the groin. The groin will be approximately 530 feet long and approximately 80 feet wide at the base. (New York District.) (EIS Order No. 90296.)

Department of Defense, Air Force

Contact: Dr. Carlos Stern, Deputy for Environment and Safety, Department of the Air Force, Room 4C885, Pentagon, Washington, D.C. 20330, (202) 697-9297.

Final Supplement

MX: Milestone II, Air Mobile Alternative, Programmatic, March 23: This statement supplements a final filed in October 1978 concerning the MX: Milestone II program. The supplement analyzes the environmental impacts associated with air mobility as an alternative survivable basing mode for MX. The elements of the air mobile alternative as now envisioned consist of a transport aircraft; missiles similar to those described in the FEIS; a structure of air bases; ground beacons; and a command, control and communication system. This alternative is in addition to the buried trench, vertical and horizontal shelters and pool alternatives discussed in the FEIS. Comments made by: DOI, EPA, NRC, State and local agencies, groups and individuals. (EIS Order No. 90308.)

Environmental Protection Agency

Contact: Betty Jankus, Region IX, Environmental Protection Agency, 215 Fremont Street, San Francisco, CA 94105, (415) 556-6695.

Draft

Treated Wastewater Disposal Program, South Bay, Santa Clara County, Calif., March 19: Proposed is a treated wastewater disposal program for the San Jose/Santa Clara, Sunnyvale, and Palo Alto wastewater treatment plants, located in the Santa Clara County Baylands along the southeastern edge of the San Francisco Bay, California. The recommended alternative at this time is the "no project alternative" for the following reasons: 1) the degree to which adverse impacts on the biota of the South Bay would be mitigated cannot be predicted, 2) substantial improvements in dissolved oxygen concentrations have not been shown, and 3) the viability of future fuel reclamation is being investigated. (EPA-9CA-SBDA-78) (EIS Order No. 90292.)

Department of HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7724, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6306.

Draft

Sage Bluffs Residential Development, Gillette, Campbell County, Wyo., March 22: Proposed is the issuance of HUD home mortgage insurance for the Sage Bluffs Residential Development, Gillette, Campbell County, Wyoming. The subdivision, when completed, will consist of 926 dwelling units including both single-family and multifamily dwelling units. The development, located on an approximate 317 acres, will also include school, open, and part space. (HUD-RO8-EIS-79-14.) (EIS Order No. 90300.)

Final

College Park Estates Subdivision, Berkeley County, S.C., March 21: Proposed is the development of College Park Estates located in southwestern Berkeley County, South Carolina, approximately 16 miles northwest of Charleston, five miles southeast of Summerville and three miles west of the City of Goose Creek. College Park is a planned community development that will consist of approximately 1600 single family residences on approximately 650 acres, when the final project phases are completed. Other land uses in this area include school and recreational sites within the project area. College Park is proposed to be totally developed over a period of approximately 15 years. (HUD-RO4-EIS-77-14F.) Comments made by: EPA, DOT, COE, AHP, USAF, USDA, FERC, HEW, DOE, DOI, State and Local Agencies, Groups and businesses. (EIS Order No. 90299.)

Final

East Hampton Development, Bartlett, Shelby County Tenn., March 21: Proposed is the issuance of HUD home mortgage insurance for the East Hampton Subdivision, a proposed 794 unit subdivision of single-family

with some townhouse units located in northeast Shelby County, Tennessee. The area is bound on the south by North Hampton Drive, on the west and north by the L&N Railroad, and on the east by Oak Road. East Hampton is being developed under the early start procedures which will contain 61 acres and 200 units. (HUD-RO-4-EIS-77-28F.) Comments made by: DOI, DOE, USDA, DOC, EPA, GSA, HEW, State and Local Agencies. (EIS Order No. 90293.)

Meadow Bend Subdivision, League City, Galveston County, Tex., March 21: Proposed is the issuance of HUD home mortgage insurance for the development of 379 acres of agricultural land into a residential area in League City, Galveston County, Texas. The residential area, Meadow Bend, as proposed will ultimately consist of about 1,485 single-family units and provide living accommodations for approximately 5,570 people (HUD-RO6-EIS-11-F-79.) Comments made by: EPA, COE, AHP, DOT, DOI, USDA, State and Local Agencies, groups. (EIS Order No. 90295.)

Department of Interior

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240 (202) 343-3891

Heritage Conservation and Recreation Service

Draft

Patapsco Valley State Park, Funding, several counties in Maryland, March 22: Proposed is the issuance of land and water conservation funding for the acquisition of 4,800 acres into and development of the Patapsco Valley State Park in Anne Arundel, Carroll, Baltimore and Howard Counties, Maryland. Development of the area will include facilities for: hiking, camping, horseback riding, picnicking, boating, swimming, playgrounds/courts, and nature study. Three alternatives are considered. (Des-79-15) EIS Order No. 90302.)

Bureau of Land Management

Final

Coal Resources Development, Southcentral Wyoming, several counties in Colorado, several counties in Wyoming, Mar. 20: Proposed are three coal mining and reclamation plans and the issuance of rights-of-way necessary to develop coal mines in Sweetwater and Carbon Counties, Wyoming and in Routt and Moffat Counties, Colorado. Right-of-way will be used for ancillary facilities related to the project, including: 1) telephone, power, and 2 transmission lines; 2) one access and one haul road; and 3) the relocation of a 230-kV power line, a 19.8-kV power line, a state highway and a telephone line. Surface ownership of these lands includes federal, state, and private. (FES-79-15) Comments made by: HUD, DLAB, DOI, DOC, USDA, AHP, EPA, State and Local Agencies, groups, individuals and businesses. (EIS Order No. 90287.)

Bureau of Reclamation**Final**

Paradox Valley Unit, Salinity Control Program, Montrose, San Miguel, Counties, Colo., Mar. 20: This action involves the construction and operation of the Paradox Valley Unit of the Colorado River Basin Salinity Control Project located in Montrose and San Miguel Counties in Colorado. The unit would involve pumping brine ground water from a series of wells along the Dolores River in Paradox Valley to reduce the influx of salt to the river by an estimated 180,000 tons. The brine would be piped to a nearby hydrogen stripping plant and then piped to the Radium Evaporation pond in the Dry Creek Basin. (FES-79-14.) Comments made by: DOI, AHP, USDA, COE, HUD, EPA, State and Local Agencies, Individuals. (EIS Order No. 90288.)

National Park Service**Draft**

Gunnison Wild and Scenic River Study, Montrose County, Colo., Mar. 20: Proposed is the inclusion of a 26 mile segment of the Gunnison River, Montrose County, Colorado in the National Wild and Scenic Rivers System, classified as a wild river. The plan also includes the classification of about 12,900 adjacent acres as wild. This river segment is situated between the upstream boundary of the Black Canyon of the Gunnison National Monument and the confluence of the Gunnison with the Smith Fork River. The alternatives include no action, and classification options. (DES-79-14.) (EIS Order No. 90290.)

Lake Mead National Recreation Area, Clark County Nev., Mohave County, Ariz., March 19: Proposed is the designation as wilderness of 25 units totaling 418,655 acres of land within the Lake Mead National Recreational area in Clark County, Nevada and Mohave County, Arizona. In addition, 262,125 acres are proposed as potential wilderness addition, to be added to the wilderness system at such time as the lands qualify as such. The alternatives considered include: 1) no action, 2) less wilderness designation, and 3) additional special provisions. (DES-79-12) (EIS Order No. 90291.)

Department of Transportation

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

Federal Highway Administration**Draft**

Clackamas Hwy. OR-212, I-205 to Boring Road, Clackamas County, Oregon, March 27: Proposed is the improvement of OR-212 (Clackamas Highway) for a distance of 3.39 miles extending east from I-205 (East Portland Freeway) to Boring Road. The plan is to widen the existing two-lane highway to four lanes between S.E. 82nd Drive to the Boring Road Junction, with a nearly continuous left turn lane, widened and signaled intersections, and general road realignment. The alternatives considered include: 1) no build; and 2) build, consisting of two design options. (FHWA-OR-EIS-79-03-D.) (EIS Order No. 90305.)

Final

Trunk Highway 65, Cambridge Bypass, Isanti County, Minn., March 22: The proposed action involves the improvement of Trunk Highway 65, which is located in east central Minnesota in Isanti County, approximately 40 miles north of Minneapolis-St. Paul. The project involves the construction of TH-65 on new location east of the City of Cambridge (Cambridge By-Pass). The bypass extends from 3.1 miles south to 3.3 miles north of the present junction of TH-65 and TH-95 in Cambridge. The proposed bypass, approximately 6.7 miles in length will be a four-lane divided highway, freeway design with fully controlled access. (FHWA-MN-EIS-78-01-F.) Comments made by: DOI, EPA, COE, DOT, HUD, FEA, State and local Agencies. (EIS Order No. 90301.)

Draft Supplement

I-101, Santa Barbara Crosstown Freeway, Santa Barbara County, Calif., Mar. 23: This statement supplements a draft EIS filed in March 1975 concerning I-101 (Santa Barbara Crosstown Freeway). This statement addresses five new alternatives, an alternative presented in the draft and no build. The segment of I-101 affected extends for 2.6 miles from Carillo Street to Salinas Street in the City and County of Santa Barbara, California. The alternatives consider three major problems: 1) the need to remove four signaled intersections, 2) a railroad barrier, and 3) the need for an intersection to handle traffic between the city and I-101. (FHWA-CA-EIS-75-01-D(S).) (EIS Order No. 90306.)

EIS's Filed During the Week of March 19 to 23, 1979

(Statement Title Index—By State and County)

State	County	Status	Statement title	Accession No.	Date filed	Orig. Agency No.
Alaska		Supple	Bowhead Whale, Deletion of Native Exemption	90307	03-23-79	DOC.
Arizona	Mohave	Draft	Lake Mead National Recreation Area	90291	03-19-79	DOI.
California	Santa Barbara	Supple	I-101, Santa Barbara Crosstown Freeway	90306	03-23-79	DOT.
	Santa Clara	Draft	Treated Wastewater Disposal Program, South Bay	90292	03-19-79	EPA.
		Supple	Trawl Fisheries, PMP, WAS/ORE/CAL	90298	03-21-79	DOC.
		Supple	Salmon Fisheries, FMP, OR, WA, CA, (S-1)	90297	03-21-79	DOC.
Colorado	Several	Final	Coal Resources Development, Southcentral Wyoming	90287	03-20-79	DOI.
	Several	Draft	Upper Arkansas Planning Unit, Pike & San Isabel N.F.	90304	03-23-79	USDA.
	Montrose	Draft	Gunnison Wild and Scenic River Study	90290	03-20-79	DOI.
	San Miguel	Final	Paradox Valley Unit, Salinity Control program	90288	03-20-79	DOI.
Delaware		Final	Paradox Valley Unit, Salinity Control program	90288	03-20-79	DOI.
		Draft	Delaware Coastal Zone Management Program (CZM)	90303	03-23-79	DOC.
Hawaii	Honolulu	Final	Sand Island Shore Protection Plan, Oahu	90289	03-20-79	COE.
Maine		Supple	Portland Harbor Maintenance Dredging, Fore River	90286	03-23-79	COE.
Maryland	Several	Draft	Patapsco Valley State Park, Funding	90302	03-22-79	DOI.
Minnesota	Isanti	Final	Trunk Highway 65, Cambridge Bypass	90301	03-22-79	DOT.
Montana	Custer	Final	Yellowstone and Tongue Rivers, Flood Protection	90294	03-21-79	COE.
Nevada	Clark	Draft	Lake Mead National Recreation Area	90291	03-19-79	DOI.
New York		Supple	East Rockaway Inlet, Erosion Control, Jamaica Bay	90296	03-23-79	COE.
Oregon	Clackamas	Draft	Clackamas Hwy. OR-212, I-205 to Boring Road	90305	03-23-79	DOT.
		Supple	Trawl Fisheries, PMP, WAS/ORE/CAL	90298	03-21-79	DOC.
		Supple	Salmon Fisheries, FMP, OR, WA, CA, (S-1)	90297	03-21-79	DOC.
		Supple MX	Milestone II, Air Mobile Alternative	90308	03-23-79	DOC.
Programmatic		Final	College Park Estates Subdivision	90299	03-21-79	HUD.
South Carolina	Berkeley	Final	East Hampton Development, Bartlett	90293	03-21-79	HUD.
Tennessee	Shelby	Final	Meadow Bend Subdivision, League City	90295	03-21-79	HUD.
Texas	Galveston	Final	Coal Resources Development, Southcentral Wyoming	90287	03-20-79	DOI.
Wyoming	Several	Final	Coal Resources Development, Southcentral Wyoming	90287	03-20-79	DOI.
	Campbell	Draft	Sage Bluffs Residential Development, Gillette	90300	03-22-79	HUD.
Washington		Supple	Trawl Fisheries, PMP, WAS/ORE/CAL	90298	03-21-79	DOC.
		Supple	Salmon Fisheries, FMP, OR, WA, CA, (S-1)	90297	03-21-79	DOC.

Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
Department of Commerce Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.	Deletion of the Native Exemption for the Subsistence Harvest of Bowhead Whales.	Final supplement 90307.....	04/02/79.....	Waiver.....	03/23/79. See app.I.

Appendix III.—EIS's filed with EPA which have been officially withdrawn by the originating agency

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—Notice of Official retraction

Federal agency contact	Title of EIS	Status/number	Date notice published in "Federal Register"	Reason for retraction
U.S. Army Corps of Engineers Dr. C. Grant Ash, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314.	Portland Harbor Maintenance Dredging, Fore River.	Draft Supplement 90286.....	03/26/79.....	Distribution of the draft supplement was not made when the notice of availability was published in FR 03/26/79 and the DS was refiled March 23, 1979.

Appendix V.—Availability of Reports/Additional Information Relating to EIS's Previously Filed with EPA

Federal agency contact	Title of report	Date made available to EPA	Accession No.
None.			

Appendix VI.—Official Correction

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
None.				

[ML 1089-2]

[FR Doc. 79-10007 Filed 3-30-79; 8:45 am]

BILLING CODE 6560.01-M

Notice of Intent To Release Confidential Data to Contractors

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of intent to release confidential data to contractors.

SUMMARY: The Environmental Protection Agency (EPA) intends to release confidential data collected under Section 308 of the Clean Water Act to two EPA contractors for the purpose of developing hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

DATES: Comments on the notice of disclosure are due by April 12, 1979.

FOR FURTHER INFORMATION CONTACT: Janet L. Auerbach, Office of Solid Waste (WH-564), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202-755-9120.

SUPPLEMENTARY INFORMATION: On December 18, 1978, EPA published proposed standards for generators of hazardous waste under Section 3002 of RCRA (40 CFR Part 250, Subpart B (43 FR 58969)). As proposed, those standards would not apply to generators of small volumes of hazardous waste (persons who produce and dispose of less than 100 kilograms (approximately 220 pounds) of hazardous waste in any one month) if their waste is sent to a permitted hazardous waste treatment/storage/disposal facility or a permitted sanitary landfill (40 CFR 250.29(a)).

Both prior to and during the public comment period on the proposed regulations, other regulatory strategies for dealing with small generators of hazardous waste—including phasing them into the hazardous waste management system by volume and degree of hazard, eliminating the exemption, and raising or lowering the waste production cut-off—were suggested. To evaluate these alternative regulatory approaches, EPA has initiated a study to find out more about the actual number of small hazardous waste generators, the types and quantities of wastes they are producing, and how those wastes are currently being disposed of. EPA will be assisted in this effort by two contractors, TRW, Inc. (Contract No. 68-02-2613) and Temple, Barker and Sloane (Contract No. 68-01-4778).

One of the sources of information which EPA will be using in its small generator study is the data which it has received in response to questionnaires sent to various industries under Section

308 of the Clean Water Act for the purpose of developing effluent guidelines, new source performance standards and pretreatment standards under Sections 301, 304, 306 and 307 of the Act. Many of the responses to these questionnaires contain information about plant size and location, wastewater composition, wastewater treatment systems, wastewater volume, production processes, and solid waste disposal practices which can be used to identify and gather information on small volume hazardous waste generators.

By using Section 308 survey data in its small generator study, EPA hopes to avoid having to make a similar survey of the same facilities under Section 3007 of RCRA (or at least to be able to substantially limit the scope of any Section 3007 request for information), and thus reduce reporting burdens for these facilities. This will, in EPA's opinion, carry out Congress' intent under Section 1006(b) of RCRA that EPA integrate its implementation of RCRA with its administration of the Clean Water Act and Congress' directive under Section 3501 of the Federal Reports Act that Federal agencies eliminate where practicable duplicative information gathering activities.

The specific Section 308 survey responses which EPA will be examining in the course of its study of small generators are:

Several of these responses contain information which has been designated as confidential by the responding company. EPA has determined that it is necessary to release this information to

TRW, Inc., and Temple, Barker and Sloane in order that they may carry out the work required by their contracts. These contracts contain all confidentiality provisions required by EPA confidentiality regulations (40 CFR 2.302(h)(2)(ii)). In accordance with those regulations, respondents who have submitted confidential information in response to the questionnaires identified above have ten days from the date of publication of this notice within which to comment on EPA's contemplated release of this information to these two contractors for the purposes outlined above (40 CFR 2.302(h)(2)(iii)).

Dated: March 27, 1979.

Thomas C. Jorling,

Assistant Administrator for Water and Waste Management.

[FRL 1088-2]

[FR Doc. 79-70014 Filed 3-30-79; 8:45 am]

BILLING CODE 6560-01

Renewal of Temporary Tolerances for Tebuthiuron

On May 6, 1977 the Environmental Protection Agency (EPA) announced (43 FR 23190) the renewal of temporary tolerances for residues of the herbicide tebuthiuron (*N*-[5-(1,1-dimethylethyl)-1,3,4-thiadiazol-2-yl]-*N,N*-dimethylurea) in or on the raw agricultural commodities sugarcane at 0.1 part per million (ppm) and eggs; milk; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.02 ppm. These tolerances were established (40 FR 56476) in response to a pesticide petition (PP 5G1562) submitted by Elanco Products Co., Div.

SIC code	Industry	Date survey disseminated
283.....	Drugs.....	August and September 1977.
2821.....	Plastic materials, synthetic resins and nonvulcanizable elastomers.....	1976 (BPT) and 1977 (BAT).
2824.....	Synthetic organic fibers, except cellulosic.....	1976 (BPT) and 1977 (BAT).
2869.....	Industrial organic chemicals, NEC.....	1976 (BPT) and 1977 (BAT).
2865.....	Cyclic (coal tar) crudes and cyclic intermediates, dyes, and organic pigments (lakes and tones).....	1976 (BPT) and 1977 (BAT).
2899.....	Chemicals and chemical preparations, NEC.....	July 25, 1978.
2879.....	Pesticides and agricultural chemicals, NEC.....	July 25, 1978.
2812.....	Alkalies and chlorine.....	1975 and 1976.
2816.....	Inorganic pigments.....	1975 and 1976.
2819.....	Industrial inorganic chemicals, NEC.....	1975 and 1976.
3681.....	Storage batteries.....	1975 and 1976.
3692.....	Primary batteries, dry and wet.....	1977-78.
2851.....	Paints, varnishes, lacquers, enamels and allied products.....	April 1977.
2893.....	Printing ink.....	April 1977.
27.....	Printing, publishing and allied industries.....	June 1977, Oct. 1977.
363.....	Household appliances.....	1977.
3431.....	Enameled iron and metal sanitary ware.....	1977.
3469.....	Metal stampings, NEC.....	1977.
3479.....	Coating, engraving, and allied services, NEC.....	1977.
3471.....	Electroplating, plating, polishing, anodizing and coloring.....	1977.
3351.....	Rolling, drawing, and extruding of copper.....	March 20, 1978.
3357.....	Drawing and insulation of nonferrous wire.....	March 20, 1978.
3464.....	Nonferrous forging.....	March 20, 1978.
332.....	Iron and steel foundries.....	December 1977.
336.....	Nonferrous foundries (castings).....	December 1977.

of Eli Lilly & Co., P.O. Box 1750, Indianapolis, IN 46206. This renewal expired March 11, 1979.

Elanco Products Co. has requested a two-year renewal of these temporary tolerances both to permit continued testing to obtain additional data and to permit marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 1471-EUP-49 that is being extended concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). (A related document amending food and feed additive regulations for residues of tebuthiuron in sugarcane syrup, molasses, and bagasse appears elsewhere in today's Federal Register.)

The scientific data reported and all other relevant material have been evaluated, and it has been determined that a renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances are renewed on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.
2. Elanco Products Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire March 26, 1981. Residues not in excess of 0.1 ppm remaining in or on sugarcane and 0.02 ppm remaining in eggs; milk; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Robert Taylor, Product Manager 25, Registration Division (TS-767), Office of Pesticide Programs, 401 M Street, SW, Washington, DC 20460 (202/755-7013).

Dated: March 26, 1979.

Statutory Authority: Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).

Douglas D. Camp,
Acting Director, Registration Division.

[FRL 1087-8: PPSG1562/T192; FRL 1087-8]

[FR Doc. 79-10016 Filed 3-30-79 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee on UHF-TV Receiver Noise Figure Measurement Standards Meeting

The Advisory committee on UHF-TV Receiver Noise Figure Measurement Standards will meet at the FCC Laboratory, Guilford, Maryland on Wednesday, April 18, 1979. Subgroup A (Subcommittee to Study Development of the Measurement Procedure) will convene at 9:00 a.m. and Subgroup B (Subcommittee to Study the Optimum Accuracy and Tolerance of Measurement Procedure) will convene at 1:00 p.m.

The agenda will include reading and approval of the minutes for the March 19, 1979 meeting. Both subcommittees will continue their work on preparing recommendations for suitable measuring techniques and necessary accuracy and tolerance measuring procedures.

Both sessions will be held at the FCC Laboratory, Guilford, Maryland, and will be open to members of the public. Members of the public may participate by presenting written statements to the committee before or after the meeting. Individuals wishing to present oral statements at the meeting should consult with the FCC designated Federal employee, Lawrence C. Middlekamp, telephone (301) 725-1585, before the meeting.

The final meeting for this advisory committee will be held on May 21, 1979 at the FCC Laboratory, Guilford, Maryland. More complete details on this final meeting will be forthcoming.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 79-9969 Filed 3-30-79; 8:45 am]

BILLING CODE 6712-01-M

Review of Advisory Committees

The Federal Communications Commission is conducting a review of one of its advisory committees, the National Industry Advisory Committee, to satisfy the requirements of the Federal Advisory Committee Act (Public

Law 92-463). In addition, the Commission, on its own initiative, will conduct a comprehensive examination of another FCC advisory committee, the Radio Technical Commission for Marine Services. As an aid to the Commission in conducting these reviews, we would like to receive comments from interested members of the public on the performance of and need for these two committees.

The Federal Advisory Committee Act requires Federal agencies to review the activities and responsibilities of their advisory committees at least once a year. The Committee Management Secretariat of the General Services Administration, which is responsible for overall coordination of the reviews being conducted by each agency, has advised us that a formal review is not required for those committees which have been established or renewed since October 1, 1978.

Of the Commission's four existing advisory committees, three (Radio Technical Commission for Marine Services (RTCM), Advisory Committee on Cable Signal Leakage, and Advisory Committee on UHF-TV Receiver Noise Figure Measurement Standards) have either been established or renewed since October 1. Accordingly, only one FCC advisory committee, the National Industry Advisory Committee, will undergo comprehensive review required by the statute.

The RTCM is not subject to this formal advisory committee review. The Commission, however, in December, 1978, approved only a short-term (nine-months) renewal of this committee and directed the FCC Office of Plans and Policy to conduct a thorough analysis of the RTCM. The purpose of this analysis is to determine the value to the FCC of future sponsorship of this advisory committee, and to evaluate whether the RTCM has influenced the Commission in the past or could influence it in the future to make decisions that might be anti-competitive in effect.

Accordingly, at this time, we are seeking comments on two committees, the National Industry Advisory Committee (NIAC) and the Radio Technical Commission for Marine Services (RTCM). Comments submitted regarding the NIAC will be used in evaluating that committee for purposes of the statutorily-required review. Comments submitted regarding the RTCM will be considered in the course of the FCC's own internal review of that committee.

The following information is provided concerning these two committees:

National Industry Advisory Committee

The NIAC advises the FCC on emergency communication policies, plans, systems, and procedures for all FCC licensed and regulated communications in order to provide emergency communication services under conditions of crisis or war. The NIAC was last renewed on July 26, 1978 and its current charter extends until July 26, 1980. Additional information on this committee may be obtained from Herbert J. Neumann, NIAC Executive Secretary, telephone (202) 632-7232.

Comments concerning the NIAC should be submitted (one copy only) to Bernard I. Kahn, Advisory Committee Management Officer, FCC, 1919 M Street, N.W., Room 414, Washington, D.C. 20554. Comments should address the question of whether continuation of the NIAC as a Federal advisory committee is necessary and in the public interest. All comments concerning the NIAC should be received no later than April 13, 1979.

Radio Technical Commission for Marine Services

The RTCM advises the FCC, the Departments of Army and Commerce, and the Coast Guard on matters concerning marine communications. Included in the work of the RTCM are studies of maritime communication practices, needs, and present and projected systems looking toward improvements in telecommunication facilities. Additional information on this committee may be obtained from Howard Peterson, RTCM Executive Secretary, telephone (202) 632-6490.

The Commission is seeking comments on the following questions: (1) whether the FCC receives benefits from the RTCM sufficient to warrant continued sponsorship of the committee, and (2) whether the RTCM has influenced the Commission in the past or could influence it in the future to make decisions that might be anti-competitive in effect.

Comments addressed to these questions should be submitted in two copies to the Public Coast Stations Task Force, Office of Plans and Policy, 1919 M Street, N.W., Room 838, Washington, D.C. 20554. All comments concerning the RTCM should be received no later than May 1, 1979.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 79-9968 Filed 3-30-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION**Agreement Filed**

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 10 days after publication of this notice in the *Federal Register*. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 10247-1.
Filing party: Coles & Goertner, Atlantrafik Express Service, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036.
Summary: Agreement No. 10247-1 would amend paragraph 5 of the basic agreement to make possible calls by Atlantrafik Express Service at northwest Australian ports for the carriage of meat from Australia to the Atlantic and Gulf Coast of the United States.

By order of the Federal Maritime Commission.

Dated: March 28, 1979.

Francis C. Hurney,
Secretary.

[FR Doc. 79-10002 3-30-79; 8:45 am]

Billing Code 6730-01-M

C. S. Greene & Co., Inc. v. Sea-Land Service, Inc.; Filing of Complaint

Notice is given that a complaint filed by C. S. Greene & Co., Inc. against Sea-Land Service, Inc. was served March 26, 1979. The complaint alleges that

respondent demanded and collected an inapplicable tariff rate in violation of section 18(b)(3) of the Shipping Act, 1916, and based its denial of complainant's claim for relief on a tariff rule which is violative of section 17 of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before September 26, 1979. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,
Secretary.

[Docket No. 79-20]

[FR Doc. 79-10001 Filed 3-30-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM**Algemene Bank Nederland N.V., A.B.N.-Stichting; Formation of Bank Holding Co.**

Algemene Bank Nederland N.V., Amsterdam, The Netherlands, and A.B.N.-Stichting, Amsterdam, The Netherlands, have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies through the acquisition by Algemene Bank Nederland of 98 per cent or more of the voting shares of Lasalle National Bank, Chicago, Illinois. A.B.N.-Stichting would become a bank holding company by virtue of its ownership of 100 per cent of the priority shares of Algemene Bank Nederland. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than April 23, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 22, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-9851 Filed 3-30-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Co.; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than April 20, 1979.

A. Federal Reserve Bank of San Francisco, 400 Sansome Street, San Francisco, California 94120:

BANKAMERICA CORPORATION, San Francisco, California (finance activities; national): to engage, through its subsidiary, FinanceAmerica Capital Corporation, in making loans and other extensions of credit and acquiring loans, participations in loans, and other extensions of credit, such as would be made or acquired by a finance company, including inventory and accounts

receivable financing, lease financing, equipment financing, insurance premium financing, making loans to nonaffiliated finance and leasing companies secured by pledges of accounts receivable of such companies, making other loans secured by real or personal property, and purchasing retail installment sales contracts; and servicing loans, participations of loans, and other extensions of credit. These activities would be conducted from offices in Allentown, Pennsylvania, Park Ridge, Illinois, and Dallas, Texas, and the geographic area to be served is national.

B. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, March 22, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board

[FR Doc. 79-9852 Filed 3-30-79; 8:45 am]

BILLING CODE 6210-01-M

Northeast Iowa Bancorporation; Formation of Bank Holding Co.

Northeast Iowa Bancorporation, Oelwein, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Oelwein State Bank, Oelwein, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, March 22, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-9853 Filed 3-30-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting

information from the public was received by the Regulatory Reports Review Staff, GAO, on March 22, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before April 20, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests clearance of application requirements contained in 10 CFR Part 51, Licensing and Regulatory Policy and Procedures for Environmental Protection. Specifically, clearance is sought for § 51.40(c) which requires that applicants for licenses, amendments for licenses, and renewals which are issued pursuant to Parts 30, 40 and/or 70, as specified in § 51.5, submit to NRC an environmental report. This requirement enables NRC to comply with the provisions of the National Environmental Policy Act of 1969 (83 Stat. 852), implemented by Executive Order 11514 and the Council on Environmental Quality's Guidelines of August 1, 1973 (38 FR 20555). The provisions require that all agencies of the Federal Government prepare detailed environmental statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. The principal objective of the quality of the National Environmental Policy Act of 1969 is to build into the agency decision-making process an appropriate and careful consideration of environmental aspects of proposed actions. The NRC estimates that potential respondents will number 38 and that reporting burden per respondent for each of the 11 anticipated new applications annually will average 5,400 hours, the reporting burden for the 20 anticipated major

amendments applications will average 400 hours per respondent, and that the average respondent burden for each of the 7 anticipated renewal applications will average 2,000 hours.

Norman F. Heyl,

Regulatory Reports, Review Officer.

[FR Doc. 79-10026 Filed 3-30-79; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Reconsideration of Disallowances Under Public Assistance Programs; Filing and Service Requirements

Under the transfer of functions accompanying the amendments to § 201.14 published on pages 9265 thru 9267 of the Federal Register of March 6, 1978, I am authorized, as successor to the Administrator of the Social and Rehabilitation Service (SRS) referred to in 45 CFR 201.14, to supplement the § 201.14 procedures by utilizing the procedures of 45 CFR Part 16. Section 201.14 of 45 CFR does not contain express filing and service provisions.

I hereby adopt as applicable in all reconsideration cases the filing and service provisions of the Board's Charter set forth at 45 CFR 16.53. Actual notice of this determination shall be given as relevant to parties to proceedings under § 201.14 and no application shall be made of this determination adverse to any party who has not been given actual notice thereof.

Dated: December 7, 1978.

Malcolm S. Mason,

Chairman, Departmental Grant Appeals Board.

[FR Doc. 79-9750 Filed 3-30-79; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Area Manager, Little Rock Area Office; Designation of Line of Succession

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of line of succession.

SUMMARY: The Area Manager is designating officials who may serve as Acting Area Manager during the absence of, or vacancy in the position of, the Area Manager.

EFFECTIVE DATE: April 2, 1979.

SUPPLEMENTARY INFORMATION: Each of the officials appointed to the following position is designated to serve as Acting Area Manager during the absence of, or

vacancy in the position of, the Area Manager, with all the powers, functions, and duties redelegated or assigned to the Area Manager: Provided, that no official is authorized to serve as Acting Area Manager unless all officials before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Area Manager.
2. Director, Housing Division.
3. Director, CPD Division.
4. Deputy for Development, Housing Division.

Designation

This designation supersedes the unpublished designation effective February 2, 1977.

(Delegation of Authority by the Secretary effective October 1, 1970; 36 FR 3389, February 23, 1971).

Andy L. Watts,

Area Manager, Little Rock Area Office, Region VI (Dallas).

Vernon C. Mayfield,

Regional Counsel, Region VI (Dallas).

[Docket No. D-79-558]

[FR Doc. 79-9909 Filed 3-30-79; 8:45 am]

BILLING CODE 4210-01-M

INTERNATIONAL COMMUNICATION AGENCY

Advisory Committee on Music; Meetings

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that the Advisory Committee on Music has scheduled meetings to be held as follows in Room 660, 1776 Pennsylvania Avenue, N.W., Washington, D.C. The meeting hours will be from 9:30 A.M. to 12:30 P.M. and from 2:00 P.M. to 5:30 P.M. The sessions will be open to the public.

Monday, April 30, 1979—Advisory Panel on Academic Music.

Tuesday, May 1, 1979—Advisory Panel on Classical Music.

Wednesday, May 2, 1979—Advisory Panel on Folk, Jazz and Popular Music.

The agenda is:

- (1) Review of program policies and guidelines;
- (2) Review of recent overseas tours in the music field sponsored by the International Communication Agency;
- (3) Evaluation of tapes and records of professional musicians and academic groups (April 30); music groups (May 1) and jazz, folk, rock and popular music individuals and groups (May 2) which are planning overseas tours and wish to be considered as candidates for grants, sponsorship or other assistance in connection with overseas tours.

Members of the public in attendance who wish to comment on the agenda

items may do so, subject to restrictions of time and direction of the Chair.

It is requested that persons wishing to attend this open session advise the Executive Secretary, Beverly Gerstein, by telephone before April 26; the telephone number is (area code 202) 724-1927.

The meeting room has a seating capacity of 40, so the public will be admitted on a first-come, first-served basis.

Dated: March 26, 1979.

Paul E. Wheeler,

Chief, Cultural Presentations Division.

[FR Doc. 79-9926 Filed 3-30-79; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF INTERIOR

Bureau of Land Management

Alaska Native Claims Selection

On April 23, 1974, as amended, and July 17, 1974, as amended, Eklutna, Inc. filed selection applications AA-6661-B and C under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975) hereinafter ANCSA), for the surface estate of lands located in the Eklutna area.

The village corporation selected lands which were withdrawn by Secs. 11(a)(1) and 11(a)(2) of ANCSA. Section 11(a)(2) specifically withdrew, subject to valid existing rights, all lands within the townships withdrawn by Sec. 11(a)(1) that had been selected by, or tentatively approved to, but not yet patented to the State of Alaska under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1970)).

Section 12(a)(1) of ANCSA provides that village selections shall be made from lands withdrawn by Sec. 11(a). Section 12(a)(1) further provides that no village may select more than 69,120 acres from lands withdrawn by Sec. 11(a)(2).

The following described lands, which are State selected, have been properly selected under village selection application AA-6661-B.

Accordingly, the State selection applications identified below are rejected as to the following described lands:

State selection A-061777 filed on October 26, 1964, as amended. T. 14, N., R. 2, W., Seward Meridian, Alaska Sec. 11, W $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$; Sec. 24, N $\frac{1}{2}$ N $\frac{1}{2}$.

Containing approximately 185 acres.

The total amount of lands which have been properly selected by the State, including any selection applications previously rejected to permit conveyances to Eklutna, Inc. is 3,410.18 acres, which is less than the 69,120 acres permitted by Sec. 12(a)(1) of ANCSA.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 5,403.87 acres, is considered proper for acquisition by Eklutna, Inc. and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska, Surveyed

T. 14 N., R. 1 W.
 Sec. 16, S $\frac{1}{2}$ S $\frac{1}{2}$;
 Sec. 17, S $\frac{1}{2}$;
 Sec. 18, lots 3 and 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
 Sec. 19, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 20, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$;
 Sec. 21, N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 22, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$;
 Sec. 23, S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$,
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$,
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,
 W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 W $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$,
 SW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 24, W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$,
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 25, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$,
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$,
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$,
 S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$,
 SW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$,
 W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$,
 W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 26, N $\frac{1}{2}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$,
 NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$,
 NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$,
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$,
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$,
 N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
 N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,
 N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$,
 E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$,
 N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 35, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 36, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$,
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$,
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,
 E $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,
 N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$,
 NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$,
 NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$,
 E $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$.

Containing 3,793.21 acres.

T. 14 N., R. 2 W.

Sec. 11, W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$,
 W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 13, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$;
 Sec. 24, N $\frac{1}{2}$ N $\frac{1}{2}$.

Containing 785 acres.

T. 14 N. R. 1 E.

Sec. 30, lots 2 and 4, W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$,
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$,
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 31, lots 1, 2, 3 and 5, SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$,
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
 SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$, SE $\frac{1}{4}$;
 Sec. 32, SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$,
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$,
 W $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$,
 W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$,
 W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$,
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$,
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.

Containing 825.66 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975));

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in casefile AA-6661-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

Allowable Uses

60 Foot Wide Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

Easements To Be Reserved

a. (EIN 1 D9) An easement sixty (60) feet in width, 30 feet each side of centerline, for an existing road from its origin at the Glenn Highway in Sec. 23, T. 14 N., R. 1 W., Seward Meridian, southeasterly to public lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

b. (EIN 1a D9) An easement sixty (60) feet in width, 30 feet each side of centerline, for an existing road from EIN 1 D9 in Sec. 21, T. 14 N., R. 1 W., Seward Meridian, southerly to public lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

c. (EIN 59 C4, L) An easement sixty (60) feet in width, 30 feet each side of centerline, for an existing road from the community of Eagle River in Sec. 12, T. 14 N., R. 2 W., Seward Meridian, easterly to public and private lands. The uses allowed are those listed above for a sixty (60) foot wide road easement.

d. (EIN 60 C4, L) An easement sixty (60) feet in width, 30 feet each side of centerline, for an existing road known as Prudhoe Bay Avenue, from the Eagle River Road in Sec. 32, T. 14 N., R. 1 E., Seward Meridian, northerly and easterly to the North Slope Subdivision.

e. (EIN 61 L) An easement one-hundred (100) feet in width for a proposed powerline from its origin at the existing Alaska Power Administration line, EIN 56 C4, in Sec. 22, T. 14 N., R. 2 W., Seward Meridian, easterly through Secs. 22, 23, and 24, T. 14 N., R. 2 W., Seward Meridian and Secs. 19, 20, 21, 22, and 23, T. 14 N., R. 1 W., Seward Meridian, then northerly to a proposed substation site on private land in Sec. 23, T. 14 N., R. 1 W., Seward Meridian. The uses allowed are those activities associated with the construction operation and maintenance of the powerline facility. Uses which are not specifically listed are prohibited. The usage of the easement will be controlled by applicable Federal, State or municipal corporation regulation.

The grant of the above described lands shall be subject to:

1. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

2. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section;

3. A right-of-way, A-046425, twenty-five (25) feet each side of the centerline, located in the NW¼ and the S½ Sec. 23, the SW¼SW¼ of Sec. 24, the NW¼ and the S½ of Sec. 25, T. 14 N., R. 1 W., Seward Meridian; lots 2 and 4, SE¼SW¼, Sec. 30; N½NE¼, SE¼NE¼, Sec. 31; W½SW¼, SE¼SW¼, W½SW¼SE¼, Sec. 32, T. 14 N., R. 1 E., Seward Meridian, for an electrical distribution line for the Matanuska Electric Association, Inc., issued pursuant to Public Law 94-579 (October 21, 1976, Title V, 90 Stat. 2743);

4. A right-of-way, AA-9101, for a Federal Aid Highway located in NW¼NE¼ and N½NW¼ of Sec. 13, T. 14 N., R. 2 W., Seward Meridian. Act of August 27, 1958, as amended (72 Stat. 885; 23 U.S.C. 317);

5. A right-of-way, A-060577, for a Federal Aid Highway twenty-five (25) feet each side of the centerline, traversing lands in the NE¼NW¼ of Sec. 13, T. 14 N., R. 2 W., Seward Meridian. Act of August 27, 1958, as amended (72 Stat. 885; 23 U.S.C. 317).

There are no inland water bodies considered to be navigable within the above described lands.

Eklutna, Inc. is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is 11,102.21 acres. The remaining entitlement of approximately 81,057.79 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Cook Inlet Region, Inc. when the surface estate is conveyed to Eklutna, Inc. and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the *Federal Register* and once a week, for four (4) consecutive weeks, in the *Anchorage Times*. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the bureau of Land Management, 701 "C" Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408 Anchorage, Alaska 99501; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until 5-2-79 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken the parties to be served with a copy of the notice of appeal are:

Eklutna, Inc., 840 "K" Street, Suite 202, Anchorage, Alaska 99501.
Cook Inlet Region, Inc., P.O. Drawer 4-N, Anchorage, Alaska 99509.
State of Alaska, Division of Lands, 323 East Fourth Avenue, Anchorage, Alaska 99501.
Judith A. Kammins,
Chief, Division of ANCSA Operations.

[AA-6661-A and AA-6661-B]

[FR Doc. 79-9929 Filed 3-30-79; 8:45 am]

BILLING CODE 4310-84-M

Alaska Native Claims Selection

On August 23, 1974 and December 13, 1974, False Pass Corporation for the Native village of False Pass filed selection applications AA-6665-A and AA-6665-B under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)) (ANCSA), for the surface estate of certain lands in the False Pass area, including lands within Izembek National Wildlife Refuge (Public Land Order (PLO) 2216) and the Aleutian Islands National Wildlife Refuge (Executive Order (EO) 1733).

The State of Alaska filed general purposes grant selection application AA-12654 on December 29, 1976, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1970)), for lands within T. 60 S., R. 92 W., Seward Meridian. False Pass Corporation properly selected Secs. 1 through 8, Secs. 17, 18, 20, 29, 32 and 33 in village selection application AA-6665-B on December 13, 1974. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may

select vacant, unappropriated and unreserved public lands in Alaska.

Therefore, in view of the above, State selection application AA-12654 is hereby rejected as to the following described lands:

Seward Meridian, Alaska (Unsurveyed)

T. 60 S., R. 92 W.

Sec. 1 (fractional), excluding U.S. Survey 1234;

Sec. 2 (fractional), all;

Secs. 3, 4 and 5, all;

Secs. 6 and 7 (fractional), all;

Sec. 8, all;

Secs. 17 and 18 (fractional), all;

Secs. 20 and 29 (fractional), all;

Sec. 32 (fractional), all;

Sec. 33 (fractional), excluding U.S. Survey 864.

Containing approximately 5,570 acres.

Further action on State selection application AA-12654 as to those lands not rejected herein will be taken at a later date.

As to the lands described below, the applications are properly filed and meet the requirements of the Alaska Native Claims settlement Act and the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

This decision approves approximately 45,956 acres of Aleutian Islands National Wildlife Refuge lands (EO 1733) and 8,105 acres of Izembek National Wildlife Refuge lands (PLO 2216) for conveyance to False Pass Corporation for a cumulative total of approximately 54,061 acres. This does not exceed the 69,120 acres permitted under Sec. 12(a)(1).

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 67,350 acres, is considered proper for acquisition by False Pass Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Lands Outside the Izembek National Wildlife Refuge (PLO 2216) and the Aleutian Islands National Wildlife Refuge (EO 1733)

Seward Meridian, Alaska (Unsurveyed)

T. 61 S., R. 94 W.

Sec. 1 (fractional), all;

Sec. 25 (fractional), excluding U.S. Survey 863;

Sec. 26 (fractional), all;

Sec. 34 (fractional), that portion outside EO 1733;

Sec. 35 (fractional), excluding U.S. Survey 1103;

Sec. 36 all

Containing approximately 1,925 acres.

T. 59 S., R. 92 W.

Sec. 27 (fractional), that portion outside PLO 2216;
 Secs. 28 and 29, those portions outside PLO 2216;
 Sec. 30 (fractional), that portion outside PLO 2216;
 Sec. 31 (fractional), all;
 Secs. 32 and 33, all;
 Secs. 34 and 35 (fractional), all.

Containing approximately 3,286 acres.

T. 60 S., R. 92 W.
 Sec. 1 (fractional), excluding U.S. Survey 1234;
 Sec. 2 (fractional), all;
 Secs. 3, 4 and 5, all;
 Secs. 6 and 7 (fractional), all;
 Sec. 8, all;
 Secs. 17 and 18 (fractional), all;
 Secs. 20 and 29 (fractional), all;
 Sec. 32 (fractional), all;
 Sec. 33 (fractional), excluding U.S. Survey 864.

Containing approximately 5,570 acres.

T. 61 S., R. 93 W.
 Sec. 4 (fractional), all;
 Sec. 7 (fractional), excluding U.S. Survey 760;
 Secs. 8, 9 and 18 (fractional), all;
 Sec. 19 (fractional), excluding U.S. Survey 1583;
 Sec. 30 (fractional), all.

Containing approximately 2,483 acres

T. 62 S., R. 94 W.
 Sec. 11 (fractional), that portion outside EO 1733, excluding U.S. Survey 1794, ANCSA Sec. 3(e) application AA-16716 and EO 4257.

Containing approximately 35 acres.
 Aggregating approximately 13,289 acres outside EO 1733 and PLO 2216.

Lands Within the Aleutian Islands National Wildlife Refuge (EO 2733)

T. 61 S., R. 94 W.
 Sec. 4 (fractional), all;
 Secs. 4 to 9, inclusive, all;
 Secs. 10 and 15 (fractional), all;
 Secs. 16 to 21, inclusive, all;
 Sec. 22 (fractional), all;
 Sec. 27 (fractional), all;
 Sec. 28 (fractional), excluding U.S. Survey 1589, U.S. Survey 1590 and Quitclaim Deed AA-5709;
 Secs. 29 to 32, inclusive, all;
 Sec. 33 (fractional), excluding Quitclaim Deed AA-5709, U.S. Survey 1588, U.S. Survey 1589 and U.S. Survey 1590;
 Sec. 34 (fractional), that portion within AEO 1733 excluding U.S. Survey 1588 and Quitclaim Deed AA-5709.

Containing approximately 11,810 acres.

T. 59 S., R. 93 W.
 Secs. 30 and 31 (fractional), all.

Containing approximately 56 acres.

T. 59 S., R. 94 W.
 Secs. 20, 21 and 22 (fractional), all;
 Secs. 25 and 26 (fractional), all;
 Sec. 27 (fractional), excluding ANCSA Sec. 3(e) application AA-16803;
 Secs. 28 to 31 (fractional), inclusive, all;
 Sec. 32, all;
 Secs. 33, 35 and 36 (fractional), all.

Containing approximately 3,465 acres.

T. 59 S., R. 95 W.
 Secs. 25 to 29 (fractional), inclusive, all;
 Secs. 32, 33 and 34, all;
 Secs. 35 and 36 (fractional), all.

Containing approximately 4,670 acres.

T. 60 S., R. 93 W.
 Secs. 19, 29 and 30 (fractional), all;
 Sec. 32 (fractional), all.

Containing approximately 1,075 acres.

T. 60 S., R. 94 W.
 Secs. 3 and 4 (fractional), all;
 Secs. 5 to 9, inclusive, all;
 Sec. 10 (fractional), all;
 Sec. 11 (fractional), excluding ANCSA Sec. 3(e) application AA-16804;
 Secs. 12, 13 and 24 (fractional), all.

Containing approximately 5,965 acres.

T. 60 S., R. 95 W.
 Secs. 1 to 12, inclusive, all.

Containing approximately 7,666 acres.

T. 62 S., R. 94 W.
 Secs. 3 and 10 (fractional), all;
 Secs. 11 and 14 (fractional), those portions within EO 1733;
 Secs. 15 and 22, all;
 Secs. 23, 25 and 26 (fractional), all;
 Secs. 27 and 28, all;
 Secs. 33, 34 and 35, all;
 Sec. 36 (fractional), all.

Containing approximately 7,225 acres.

T. 63 S., R. 93 W.
 Secs. 2 to 5 (fractional), inclusive, all;
 Sec. 6 (fractional), excluding U.S. Survey 1574.

Containing approximately 1,899 acres.

T. 63 S., R. 94 W.
 Secs. 1, 2 and 3 (fractional), all;
 Sec. 4, all.

Containing approximately 2,125 acres.
 Aggregating approximately 45,956 acres within EO 1733.

Lands Within the Izembek National Wildlife Refuge (PLO 2216)

T. 59 S., R. 92 W.
 Secs. 7 and 8, all;
 Secs. 9, 10 and 11 (fractional), all;
 Secs. 14, 15 and 16 (fractional), all;
 Sec. 17, all;
 Secs. 18 and 19 (fractional), all;
 Secs. 20 and 21, all;
 Sec. 22 (fractional), all;
 Sec. 27 (fractional), that portion within PLO 2216;
 Secs. 28 and 29, those portions within PLO 2216;
 Sec. 30 (fractional), that portion within PLO 2216.

Containing approximately 6,890 acres.

T. 59 S., R. 93 W.
 Secs. 1, 12 and 13 (fractional), all.

Containing approximately 1,215 acres.
 Aggregating approximately 8,105 acres within PLO 2216.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6665-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 1 C5, D9) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

b. (EIN 5 D9) An easement for an existing access trail, twenty-five (25) feet in width, from Hot Springs Bay in T. 60 S., R. 92 W., Seward Meridian, southeasterly to the hot springs campsite EIN 5a D9 and continuing southeasterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

c. (EIN 5a D9) A site easement upland of the ordinary high water mark in Sec. 33, T. 60 S., R. 92 W., Seward Meridian, on the shore of the hot springs at the mouth of an unnamed creek. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the hot springs and the creek along the entire waterfront of the site. The site is for camping, staging and vehicle use.

d. (EIN 6 D9) An easement for an existing access trail, twenty-five (25) feet in width in Sec. 6, T. 63 S., R. 93 W., Seward Meridian, from Ikatan Bay to Otter Cove. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

e. (EIN 7 D9) An easement for an existing access trail, twenty-five (25) feet in width in Sec. 3, T. 63 S., R. 93 W., Seward Meridian, extending from site

easement EIN 7a D9 on the shore of an unnamed lake northerly to Ikatan Bay. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

f. (EIN 7a D9) A site easement in Sec. 3, T. 63 S., R. 93 W., Seward Meridian, on the north shore of an unnamed lake. The site is one (1) acre in size with an additional twenty-five (25) foot wide easement on the bed of the lake along the entire waterfront of the site. The site will be used for camping, staging and vehicle use.

g. (EIN 8 C4) An easement for a proposed access trail, twenty-five (25) feet in width, from St. Catherine's Cove in Sec. 3, T. 60 S., R. 94 W., Seward Meridian, southerly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

h. (EIN 9 C4) An easement for an existing access trail, twenty-five (25) feet in width, from Bechevin Bay in T. 60 S., R. 93 W., Seward Meridian, southwesterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

i. (EIN 10 C4) An easement for an existing access trail, twenty-five (25) feet in width, from airport in T. 61 S., R. 94 W., Seward Meridian, southwesterly to public lands. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

j. (EIN 11 C) The right of the United States to enter upon the lands herein granted for cadastral, geodetic, or other survey purposes is reserved, together with the right to do all things necessary in connection therewith.

These reservations have not been conformed to the Departmental easement policy announced March 3, 1978 and published as final rulemaking on November 27, 1978, 43 FR 55326. Conformance will be made at a later date in accordance with the terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, the Aleut Corporation, the False Pass Corporation and other Aleut village corporations.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g)

(1970))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. The following third party interest created and identified by the Bureau of Sport Fisheries and Wildlife as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(g) (Supp. V, 1975)):

a. A Special Use Permit, STA. No. 72551, issued to Lamont Doherty, Geological Observatory, Columbia University on November 19, 1976, for the purpose of installation and maintenance of a seismic station to determine the seismology of the eastern Aleutian Islands located in W $\frac{1}{2}$ SW $\frac{1}{4}$ of Sec. 32, T. 60. S., R. 93 W., Seward Meridian, approximately 6 miles north of the village of False Pass.

4. Requirements of Sec. 22(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 714; 43 U.S.C. 1601, 1621(g) (Supp. V. 1975)), that (a) the above-described lands which were within the boundaries of the Izembek National Wildlife Refuge and the Aleutian Islands National Wildlife Refuge on December 18, 1971, remain subject to the laws and regulations governing use and development of such refuge, and that (b) the right of first refusal, if said land or any part thereof is ever sold by the above-named corporation, is reserved to the United States;

5. Requirements of Sec 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V. 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

6. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, The Aleut Corporation, the False Pass Corporation, and other Aleut village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for False Pass Corporation, serialized AA-6665-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska

State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

False Pass Corporation is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 67,350 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 1,770 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above, excluding those lands which have been withdrawn by EO 1733 and PLO 2216, and which are reserved thereby as a national wildlife refuge, shall be granted to The Aleut Corporation, when conveyance is granted to False Pass Corporation, for the surface estate and shall be subject to the same conditions as the surface conveyance. Section 12(a)(1) provides that when a village corporation selects the surface estate of lands within a national wildlife refuge system, the regional corporation may make selections of the subsurface estate, in an equal acreage, from other lands withdrawn by Sec. 11(a) within the region.

There are no inland water bodies considered to be navigable within the described lands.

In accordance with Departmental regulations 43 CFR 2650.7(d), notice of this decision is being published once in the *Federal Register* and once a week for four (4) consecutive weeks, in the *Anchorage Times*. Any party claiming a property interest in lands affected by this decision may appeal the decision to Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until 5-2-79 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If False Pass Corporation or The Aleut Corporation objects to any easement which is identified herein for a reservation in the conveyance, which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. If a petition for reconsideration is not filed it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. For further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

False Pass Corporation, False Pass, Alaska 99583.

The Aleut Corporation, 833 Gammell Street, Anchorage, Alaska 99501.

Judith A. Kammins,
Chief, Division of ANCSA Operations.

[AA-6665-A and AA-6665-B]

[FR Doc. 79-9928 Filed 3-30-79; 8:45 am]

BILLING CODE 4310-84-M

Alaska Native Claims Selection

The purpose of this decision is to modify paragraph 3 on pages 9 and 10 of the decision dated March 12, 1979, under the heading "The grant of lands shall be subject to:"

The paragraph now reads:

3. Airport lease AA-1092, containing approximately 82.116 acres, located within Sec. 1, T. 14 S., R. 59 W., Seward Meridian, issued to the State of Alaska, Division of Aviation, under the provisions of the act of May 24, 1928 (45 Stat. 728-729; 49 U.S.C. 211-214 (1970));

The paragraph is hereby corrected and modified to read as follows:

3. Airport lease AA-1092, containing approximately 112 acres, located within Sec. 1, T. 14 S., R. 59 W., Seward Meridian, issued to the State of Alaska, Division of Aviation, under the provisions of the act of May 24, 1928 (45 Stat. 728-729; 49 U.S.C. 211-214 (1970));

This decision corrects only the acreage figure in the above paragraph. All other terms and conditions of the

March 12, 1979 decision remain unchanged.

Judith A. Kammins,
Chief, Division of ANCSA Operations.

[AA-6679-A thru AA-6679-J]

[FR Doc. 79-9930 Filed 3-30-79; 8:45 am]

BILLING CODE 4310-84-M

Alaska Native Claims Selection

On February 17, 1978, Cook Inlet Region, Inc. (CIRI) filed an application for title to the metalliferous minerals estate pursuant to Sec. 12(b)(4) of the act of January 2, 1976, (89 Stat. 1151) and Sec. I.D. (2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet area, as clarified in August 31, 1976.

Section 12(b)(4) of the act of January 2, 1976 authorizes conveyance to CIRI of the metalliferous minerals within lands described in Sec. I.D. (2) of the Terms and Conditions.

The selection application of CIRI, as to the lands described below are properly filed and meet the requirements of the act, *supra*. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, only the metalliferous minerals estate in the following described lands, aggregating approximately 9,600 acres, is considered proper for acquisition by CIRI, and is hereby approved for conveyance pursuant to Sec. 12(b)(4) of the act of January 2, 1976, and the Terms and Conditions for Land Consolidation and Management in the Cook Inlet area:

Seward Meridian, Alaska (Unsurveyed)

T. 1 N., R. 21 W.
Secs. 13, 14 and 15, all;
Secs. 22 to 28, inclusive, all;
Secs. 32 to 36, inclusive, all.

Containing approximately 9,600 acres.

Conveyance of the rights to the metalliferous minerals in the lands described above shall contain the following reservation to the United States:

All other non-metalliferous minerals including but not limited to common varieties of minerals.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey converging such lands;

2. Valid existing rights therein, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat.

339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way or easement and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him; and

3. The provisions of Sec. I.D. (2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet area, namely the covenants that: All activities related to the extraction of such minerals shall be subject to a surface use plan submitted by CIRI and approved by the Secretary; surface use for the purposes of exploration, extraction, access and beneficiation shall be conducted in accordance with the most advanced technology commercially available at the time, consistent with the exercise of the rights conveyed under this subparagraph; and CIRI, its successors and assigns, shall be required to repair and reclaim any surface damage as rapidly as practicable consistent with the reasonable exercise of such mineral rights. •

Pursuant to Sec. 12(c) of the act of January 2, 1976, *supra*, conveyance of title to the metalliferous minerals in the above-described lands shall constitute a portion of CIRI's entitlement under Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(c) (Supp. V, 1975)). Action on the remaining Sec. 12(c) entitlement will be taken at a later date.

In accordance with Departmental regulation 43 CFR 2850.7(d), notice of this decision is being published once in the *Federal Register* and once a week, for four (4) consecutive weeks, in the *Anchorage Times*. Any party claiming a property interest in land affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510. A copy must also be served upon the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving notice of this decision shall have 30 days from the receipt of this decision to file an appeal.

Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until 5-2-79 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights

which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the adverse party to be served with a copy of the notice of appeal is:

Cook Inlet Region, Inc., P.O. Drawer 4-N, Anchorage, Alaska 99509.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Judith A. Kammins,
Chief, Division of ANCSA Operations.

[AA-11153-32]

[FR Doc. 79-9931 Filed 3-30-79; 8:45 am]

BILLING CODE 4310-84-M

Alaska Native Claims Selection

On November 27, 1974, Chamai, Incorporated, for the Native village of McGrath filed selection application F-14889-A, under the provisions of section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)), for the surface estate of certain lands in the McGrath area. On November 15, 1976, in accordance with Title 10, Chapter 05, Sections 396 and 399 of the Alaska Business Corporation act, and as authorized by Pub. L. 94-204, section 30 (89 Stat. 1148), the Native Villages of McGrath (Chamai, Incorporated), Takotna (Gold Creek, Limited), Nikolai (DonLee, Corporation), and Telida (Seseui, Inc.) formed a new corporation which consolidated individual village interests into one single constituent corporation, MTNT, Ltd.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 82,482 acres, is considered proper for acquisition by MTNT, Ltd. and is hereby approved for conveyance pursuant to section 14(a) of

the Alaska Native Claims Settlement Act:

U.S. Survey 2646 as shown on the amended plat accepted March 11, 1953, Alaska, excluding Quit Claim Deed to the State of Alaska, F-035274, Alaska Native Claims Settlement Act 3(e) application AA-19983 and Alaska Native Claims Settlement Act 3(e) application AA-19984. Containing approximately 420 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 29 S., R. 17 E.,
Sec. 1, all;
Secs. 2, 3, and 4, excluding the Takotna River;
Sec. 5, excluding Native allotments F-16287 and F-16314;
Sec. 6, excluding Native allotment F-16314.

Containing approximately 3,178 acres.

T. 29 S., R. 19 E.,
Secs. 1 and 2, excluding the Kuskokwim River;
Secs. 3 to 6, inclusive, all.

Containing approximately 3,263 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 34 N., R. 31 W.,
Secs. 31 to 36, inclusive, excluding the Kuskokwim River.

Containing approximately 3,108 acres.

T. 33 N., R. 32 W.,
Secs. 1 to 7, inclusive, excluding the Kuskokwim River;
Sec. 8, excluding Native allotments F-17742, F-17772 and the Kuskokwim River;
Secs. 9 to 15, inclusive, excluding the Kuskokwim River;
Sec. 16, excluding Native allotment F-18383;
Sec. 17, excluding Native allotments F-17742, F-18383, F-17788, F-17792, and F-17793;
Secs. 18 to 21, inclusive, all;
Secs. 22, 23 and 24, excluding the Kuskokwim River;
Secs. 25 to 36, inclusive, all.

Containing approximately 20,520 acres.

T. 34 N., R. 32 W.,
Secs. 31 and 32, excluding the Kuskokwim River.

Containing approximately 910 acres.

T. 32 N., R. 33 W.,
Secs. 1 to 4, inclusive all;
Secs. 5 and 6, excluding the Kuskokwim River;
Secs. 7 to 24, inclusive, all.

Containing approximately 15,066 acres.

T. 33 N., R. 33 W.,
Secs. 1 to 4, inclusive, excluding the Kuskokwim River;
Sec. 5, all;
Sec. 6, excluding U.S. Survey 4311 and the Takotna River;
Sec. 7, excluding U.S. Survey 1962, U.S. Survey 2646 as shown on the amended plat accepted March 11, 1953, and the Takotna and Kuskokwim Rivers;
Sec. 8, excluding U.S. Survey 1961, U.S. Survey 1962, U.S. Survey 3140A, U.S. Survey 3140B, and the Kuskokwim River;
Secs. 9 to 12, inclusive, excluding the Kuskokwim River;
Sec. 13, all;
Secs. 14 and 15, excluding the Kuskokwim River;

Sec. 16, excluding U.S. Survey 1961, U.S. Survey 2646 as shown on the amended plat accepted March 11, 1953, and the Kuskokwim River;
Sec. 17, excluding U.S. Survey 1961, U.S. Survey 1962, U.S. Survey 2646 as shown on the amended plat accepted March 11, 1953, U.S. Survey 3140A, U.S. Survey 3140B, and the Kuskokwim River;
Sec. 18, excluding U.S. Survey 1962, U.S. Survey 2646 as shown on the amended plat accepted March 11, 1953, and the Kuskokwim River;
Secs. 19, 20 and 21, excluding U.S. Survey 2646 as shown on the amended plat accepted March 11, 1953, and the Kuskokwim River;
Secs. 22 and 23, all;
Sec. 24, excluding Native allotment F-17875 Parcel B;
Sec. 25, all;
Sec. 26, excluding Native allotment F-18173;
Sec. 27, excluding Native allotment F-18173 and the Kuskokwim River;
Secs. 28 to 31 inclusive, excluding the Kuskokwim River;
Sec. 32, all;
Sec. 33, excluding the Kuskokwim River;
Secs. 34 and 35, excluding Native allotment F-18173 and the Kuskokwim River;
Sec. 36, all;
Containing approximately 18,969 acres.

T. 34 N., R. 33 W.,
Secs. 31 and 32, excluding the Takotna River;
Secs. 33 to 36, inclusive, all.
Containing approximately 3,545 acres.
T. 32 N., R. 34 W.,
Secs. 1 and 2, excluding the Kuskokwim River;
Secs. 3 to 10, inclusive, all;
Secs. 11 and 12, excluding the Kuskokwim River;
Sec. 13, excluding Native allotment F-16842 Parcel A and the Kuskokwim River;
Secs. 14 and 15, excluding the Kuskokwim River;
Sec. 16, excluding Quit Claim Deed dated June 30, 1959, and the Kuskokwim River;
Secs. 17 and 18, all;
Secs. 23 and 24, excluding the Kuskokwim River;
Sec. 25, all;
Sec. 35, excluding the Kuskokwim River;
Sec. 36, all.

Containing approximately 13,503 acres.
Aggregating approximately 82,482 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and
2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in casefile F-14889-EE are reserved to the United States. All easements are subject of applicable Federal, State, or municipal corporation regulation.

The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed on a site easement are: vehicle parking (e.g., aircraft, boats, ATVs, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 7 L) An easement for a proposed access trail twenty-five (25) feet in width from the Kuskokwim River in Sec. 35, T. 32 N., R. 34 W., Seward Meridian, southeasterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 7a C5) A one (1) acre site easement upland of the ordinary high water mark in Sec. 35, T. 32 N., R. 34 W., Seward Meridian, on the left bank of the Kuskokwim River at trail EIN 7. The uses allowed are those listed above for a one (1) acre site.

c. (EIN 8 D9) An easement for an existing access trail twenty-five (25) feet in width from McGrath southeasterly through T. 32 N., R. 33 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 9 C1) An easement for an existing access trail twenty-five (25) feet in width from McGrath easterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 10 C1, D9) An easement for an existing access trail twenty-five (25) feet in width from McGrath easterly toward old "Farewell." The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter use only.

f. (EIN 13 D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 16, T. 32 N., R. 34 W., Seward Meridian, on the right bank of the Kuskokwim River below Sterling Landing. The uses allowed are those listed above for a one (1) acre site.

g. (EIN 20 C1, C3, D9) An easement for an existing access trail twenty-five (25) feet in width from McGrath westerly to Takotna along the old Iditarod Trail route. The uses allowed are those listed for a twenty-five (25) foot wide trail easement.

h. (EIN 27 C3, D9) An easement for an existing access trail fifty (50) feet in width from McGrath northerly toward the Appel Mountains to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement. The season of use will be limited to winter use.

i. (EIN 35 C5) An easement for a proposed access trail twenty-five (25) feet in width from Sec. 31, T. 32 N., R. 33 W., Seward Meridian, southwesterly to Sec. 1, T. 31 N., R. 34 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

j. (EIN 38 C5) An easement for a proposed access trail fifty (50) feet in width from Sec. 31, T. 28 S., R. 17 E., Kateel River Meridian, southwesterly to Sec. 1, T. 29 S., R. 16 E., Kateel River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

k. (EIN 47 C4) An easement sixty (60) feet in width for an existing road from the McGrath townsite in Sec. 17, T. 33 N., R. 33 W., Seward Meridian, easterly and northerly to the communication tower field located in U.S. Survey 2646 as shown on the amended plat accepted March 11, 1953. The uses allowed are those listed above for a sixty (60) foot wide road easement.

l. (EIN 50 C4) An easement ten (10) feet in width for an existing powerline from the McGrath townsite in Sec. 17, T. 33 N., R. 33 W., Seward Meridian. The uses allowed are those activities associated with the construction, operation, and maintenance of the powerline facility. Uses which are not specifically listed are prohibited. The usage of the easement will be controlled by applicable Federal, State, or municipal corporation regulation.

m. (EIN 51 C5) An easement sixty (60) feet in width for an existing road from Sterling Landing in Sec. 16, T. 32 N., R. 34 W., Seward Meridian, westerly through the selection area. The uses allowed are those listed above for a sixty (60) foot wide road easement.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;
2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g), (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;
3. Airport lease, F-23, Tract 3 and Tract 2 Parcels 1, 2 and 3, containing approximately 432 acres, located in Secs. 6, 7, 19 and 20 of T. 33 N., R. 33 W., Seward Meridian, issued to the State of Alaska, Division of Aviation, under the provisions of the act of May 24, 1928 (45 Stat. 728-729; 49 U.S.C. 211-214 (1970));
4. A right-of-way, AA-12821, for an Earth Satellite Communications Site located in U.S. Survey 2646 as shown on the amended plat accepted March 11, 1953, issued to RCA Alaska Communications, Inc., under the

provisions of the Act of October 21, 1976 (90 Stat. 2743, 2776; 43 U.S.C. 1701, 1761);

5. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

MTNT, Ltd. (for the village of McGrath) is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act; to date, approximately 82,482 acres of this entitlement have been approved for conveyance, the remaining entitlement of approximately 9,678 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Doyon, Limited when conveyance is granted to MTNT, Ltd. for the surface estate and shall be subject to the same conditions as the surface conveyance.

Only the following inland water bodies within the described lands are considered to be navigable:

Kuskokwim River;
Takotna River.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 "C" Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.
2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until May 2, 1979 to file an appeal.
3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are:

Doyon, Limited, First and Hall Streets,
Fairbanks, Alaska 99701.
MTNT, Ltd., Box 104, McGrath, Alaska 99627.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from Bureau of Land Management, 701 "C" Street, Box 13, Anchorage, Alaska 99513.
Willa May Shore,
Acting Chief, Branch of Adjudication.

[F-14889-A and F-14889-EE]

[FR Doc. 79-9990 Filed 3-30-79; 8:45 am]

BILLING CODE 4310-84-M

Alaska Native Claims Selection

On November 27, 1974, DONLEE CORPORATION filed village selection application F-14906-A under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (Supp. V, 1975)), for lands located near the village of Nikolai.

DONLEE CORPORATION in its application excluded several bodies of water. Because certain of those water bodies have been determined to be nonnavigable, they are considered to be public lands withdrawn under section 11(a)(1) and available for selection by the village pursuant to section 12(a) of the Alaska Native Claims Settlement Act.

Section 12(a) and 43 CFR 2651.4(b) and (c) provide that the village corporation shall select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries.

For these reasons, the water bodies which were improperly excluded in DONLEE CORPORATION's application are considered selected.

As to the lands described below, the application submitted by DONLEE CORPORATION is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

On November 15, 1976, DONLEE CORPORATION (for the Village of Nikolai) consolidated with the village corporations of McGrath, Telida, and

Takotna as provided in section 30 of the Alaska Native Claims Settlement Act, as amended (89 Stat. 1145, 1148; 43 U.S.C. 1601, 1627). The corporation resulting therefrom, MTNT, Ltd., is entitled to all the rights, privileges and benefits of the Alaska Native Claims Settlement Act.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 63,012 acres, is considered proper for acquisition by MTNT, Ltd., and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

Kateel River Meridian, Alaska (Unsurveyed)

T. 28 S., R. 23 E.
Secs. 1 to 4, inclusive, all;
Secs. 5, excluding Native Allotment F-17317;
Secs. 6 to 16, inclusive, all;
Secs. 17 and 18, excluding Native Allotment F-17178;
Secs. 19 to 28, inclusive, all;
Secs. 29 to 34, inclusive, excluding South Fork Kuskokwim River;
Secs. 35 and 36, all.

Containing approximately 22,025 acres.

T. 28 S., R. 24 E.
Secs. 1 to 4, inclusive, all;
Secs. 5, excluding Native Allotment F-17519 parcel B;
Secs. 6 to 36, inclusive, all.

Containing approximately 22,925 acres.

T. 29 S., R. 23 E.
Secs. 1 to 6, inclusive, excluding that portion of South Fork Kuskokwim River downstream of Nikolai village.

Containing approximately 2,888 acres.

T. 29 S., R. 24 E.
Secs. 1 to 6, inclusive, all.

Containing approximately 3,373 acres.

T. 27 S., R. 23 E.
Secs. 28 to 33, inclusive, excluding North Fork Kuskokwim River.

Containing approximately 2,929 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 34 N., R. 26 W.,
Secs. 31 and 32, all.

Containing approximately 1,202 acres

T. 33 N., R. 26 W.,
Secs. 1 to 6, inclusive, all;
Secs. 9 to 14, inclusive, all.

Containing approximately 7,670 acres.
Aggregating approximately 63,012 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (supp. V, 1975)).
2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971

(85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14906-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATVs, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 2 C3, D1, D9, L) An easement for an existing access trail twenty-five (25) feet in width from the junction of trail EIN 7 C3 in Sec. 36, T. 28 S., R. 24 E., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 3 C3, D1, D9, L) An easement for an existing access trail fifty (50) feet in width from Nikolai northwesterly to Medfra. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

c. (EIN 4 C5, M) An easement for an existing access trail twenty-five (25) feet in width from Nikolai southerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 7 C3) An easement for an existing access trail fifty (50) feet in width from Nikolai easterly thence southeasterly along the Little Tonzona River to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

e. (EIN 10 D1, M) An easement for an existing access trail twenty-five (25) feet in width from Nikolai northerly to the North Fork Kuskokwim River and continuing to trail EIN 8. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 19 D9) A one (1) acre site easement upland of the ordinary high-water mark in Sec. 31, T. 27 S., R. 23 E., Kateel River Meridian, on the left bank of the North Fork Kuskokwim River at the confluence of the East Fork. The uses allowed are those listed above for a one (1) acre site.

g. (EIN 25 C5) An easement for a proposed access trail twenty-five (25) feet in width from the South Fork Kuskokwim River in Sec. 5, T. 29 N., R. 24 W., Kateel River Meridian, southerly to Sec. 7, T. 33 N., R. 26 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights, therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Public airport lease F-19444, containing approximately 107 acres, located in Sec. 36, T. 28 S., R. 23 E., and Sec. 31, T. 28 S., R. 24 E., Kateel River Meridian, issued to State of Alaska, Division of Aviation, under the provisions of the act of May 24, 1928, as amended (45 Stat. 728-729; 49 U.S.C. 211-214 (1970)); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

MTNT, Ltd., is entitled to conveyance of 69,120 acres of land selected for the village of Nikolai pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date approximately 63,012 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 6,108 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above shall be granted to Doyon, Limited when conveyance is granted to MTNT, Ltd. for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following water bodies within the described lands are considered to be navigable:

Kuskokwim River,
North Fork Kuskokwim River through the selection area,
South Fork Kuskokwim River from its mouth upstream to the village of Nikolai.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the *Federal Register* and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433,

Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.
2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until May 2, 1979 to file an appeal.
3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are:

MTNT, Ltd., Box 104, McGrath, Alaska 99627.
Doyon, Limited, First and Hall Streets,
Fairbanks, Alaska 99701.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Willa May Shore,
Acting Chief, Branch of Adjudication.

[F-14906-A]

[FR Doc. 70-9991 Filed 3-30-79; 8:45 am]

BILLING CODE 4310-84-M

Alaska Native Claims Selection

On December 18, 1971, section 11 of the Alaska Native Claims Settlement Act (85 Stat. 688, 696; 43 U.S.C. 1601, 1610 (Supp. V, 1975)), withdrew the lands surrounding the village of Takotna for Native selection.

On November 27, 1974, Gold Creek Limited filed selection application F-14942-A under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (Supp. V, 1975)), for the surface estate of certain lands located near Takotna. On November 15, 1976, the individual Corporations for the Native villages of McGrath, Telida, Nikolai and Takotna consolidated forming a single new corporation, MTNT, Ltd.

On August 22, 1977, school site lease No. AA-13882 was issued to the State of Alaska pursuant to section 302 of the Federal Land Management and Policy

Act of October 21, 1976 (P.L. 94-579, 90 Stat. 2743), and section 22(i) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1621(i) (Supp. V, 1975)). Section 1 of said lease states in part that the lease is "to terminate on conveyance of said land out of United States ownership". Pursuant to that provision, said lease shall terminate upon conveyance of the surface estate of the lands included therein to MTNT, Ltd.

As to the lands described below, the application submitted by Gold Creek Limited is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 63,843 acres, is considered proper for acquisition by MTNT, Ltd., and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

U.S. Survey 2058, situated about ¼ mile east of the village of Takotna. Containing 80.86 acres.
U.S. Survey 4105, Lot 1, situated at Takotna, Alaska. Containing 0.53 acres.
Mineral Survey 1274, that portion within protracted Sec. 3, T. 29 S., R. 13 E., Kateel River Meridian, excluding Patent No. 938613. Containing approximately 65 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 28 S., R. 13 E.,
Sec. 3, all;
Sec. 4, excluding the Innoko River;
Sec. 5, excluding Mineral Survey Application AA-12496, Mineral Survey Application AA-13705, and the Innoko River;
Sec. 8, excluding Mineral Survey Application AA-12496;
Secs. 9 and 10, excluding the Innoko River;
Sec. 13, all;
Sec. 14, excluding Native allotment application F-19368, and the Innoko River downstream of its confluence with Independence Creek;
Sec. 15, excluding the Innoko River;
Secs. 22 to 26, inclusive, all;
Secs. 35 and 36, all.

Containing approximately 9,995 acres.

T. 29 S., R. 13 E.,
Secs. 1 and 2, all;
Sec. 3, excluding Mineral Survey 1273 and Mineral Survey 1274.

Containing approximately 1,592 acres.

T. 28 S., R. 14 E.,
Secs. 18 and 19, all;
Secs. 30, 31, and 32, all.

Containing approximately 3,184 acres.

T. 29 S., R. 14 E.,
Secs. 4, 5 and 6, all.

Containing approximately 1,687 acres.

Seward Meridian, Alaska (Unsurveyed)

T. 32 N., R. 35 W.,
Secs. 1, 2 and 3, all;
Secs. 6 to 17, inclusive, all;
Secs. 23 and 24, all.

Containing approximately 10,794 acres.

T. 33 N., R. 35 W.,
Secs. 31 and 32, excluding PLO 731.

Containing approximately 360 acres.

T. 32 N., R. 36 W.,
Secs. 1, 3 and 12, excluding PLO 731.

Containing approximately 1,050 acres.

T. 33 N., R. 36 W.,
Sec. 2, excluding Native allotments F-18973
and F-18974 and the Takotna River;
Sec. 3, excluding Native allotments F-18247
and F-18305, U.S. Survey 1963, U.S. Survey
2058, and the Takotna River;
Sec. 4, excluding U.S. Survey 1963;
Secs. 5, 6 and 7, all;
Secs. 8, 9 and 10, excluding the Takotna
River;
Secs. 15 and 16, all;
Secs. 17 to 20, inclusive, excluding the
Takotna River;
Secs. 21 and 22, all;
Sec. 25, excluding PLO 731, PLO 815 and PLO
1740;
Sec. 26, excluding PLO 815;
Secs. 27 and 28, all;
Secs. 29, 30 and 31, excluding the Takotna
River;
Secs. 32, 33 and 34, all;
Sec. 35, excluding PLO 815;
Sec. 36, excluding PLO 731 and PLO 815.

Containing approximately 16,213 acres.

T. 34 N., R. 36 W.,
Secs. 31 and 32, all;
Sec. 33, excluding U.S. Survey 1963;
Sec. 34, excluding U.S. Survey 1963, U.S.
Survey 2058, U.S. Survey 3327, U.S. Survey
4105, Lots 1 and 3, those lands included in a
quitclaim deed to the State of Alaska dated
June 30, 1959, and the Takotna River;
Sec. 35, excluding U.S. Survey 3310, U.S.
Survey 3327, U.S. Survey 4105, Lots 1 and 2
and the Takotna River;
Sec. 36, excluding the Takotna River.

Containing approximately 3,473 acres.

T. 32 N., R. 37 W.,
Secs. 3 to 8, inclusive, excluding the Takotna
River;
Sec. 18, excluding the Takotna River;
Sec. 19, all;
Sec. 30, excluding the Takotna River.

Containing approximately 5,230 acres.

T. 33 N., R. 37 W.,
Secs. 1 to 5, inclusive, all;
Secs. 35 and 36, excluding the Takotna River.

Containing approximately 4,325 acres.

T. 34 N., R. 37 W.,
Sec. 31, excluding Mineral Survey 1273;
Secs. 32 to 36, inclusive, all.

Containing approximately 3,620 acres.

T. 32 N., R. 38 W.,
Secs. 13, 24 and 25, excluding the Takotna
River.

Containing approximately 1,650 acres.

T. 34 N., R. 38 W.,
Sec. 36, excluding Mineral Survey 1272 and
Mineral Survey 1273.

Containing approximately 524 acres.
Aggregating approximately 63,843 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)).
2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14942-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.
 - 25 Foot Trail**—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).
 - 50 Foot Trail**—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles.
 - 60 Foot Road**—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles and four-wheel drive vehicles, automobiles, and trucks.
 - One Acre Site**—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.
- a. (EIN 2 C3, D1, D9) An easement for an existing access trail fifty (50) feet in width from Takotna southwesterly following the Takotna River to public lands toward the Moore Creek mining area. The uses allowed are those listed above for a fifty (50) foot wide trail easement. The season of use will be limited to winter use.
- b. (EIN 3 D1) An easement for an existing access trail twenty-five (25) feet in width from Takotna northwesterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.
- c. (EIN 4 C3, D1, D9) An easement sixty (60) feet in width for an existing road from the Ophir Road in Sec. 24, T. 28 S., R. 13 E., Kateel River Meridian, southerly and westerly to the Ganes Creek placer mining area and public land. The uses allowed are those listed above for a sixty (60) foot wide road easement.
- d. (EIN 5 D9) An easement for an existing access trail twenty-five (25) feet in width

from the Iditarod Trail in Sec. 10, T. 33 N., R. 34 W., Seward Meridian, southwesterly to the Ophir Road in Sec. 12, T. 32 N., R. 36 W., Seward Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

- e. (EIN 14 D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 10, T. 33 N., R. 36 W., Seward Meridian, on the right bank of the Takotna River at the juncture of the Takotna River and EIN No. 51, the Ophir Road. The uses allowed are those listed above for a one (1) acre site.
- f. (EIN 15 C5) An easement sixty (60) feet in width for an existing road from Takotna northerly to the village airstrip. The uses allowed are those listed above for a sixty (60) foot wide road easement.
- g. (EIN 16 C3, D1) An easement sixty (60) feet in width for an existing road from the Ophir Road in Sec. 5, T. 28 S., R. 13 E., Kateel River Meridian, southerly following Little Creek, to an active mining area and public land. The uses allowed are those listed above for a sixty (60) foot wide road easement.
- h. (EIN 17 D1) An easement for an existing access trail twenty-five (25) feet in width from the Ophir Road in Sec. 5, T. 28 S., R. 13 E., Kateel River Meridian, southerly along Ganes Creek to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.
- i. (EIN 20 C1, C3, D9) An easement for an existing access trail twenty-five (25) feet in width from the Takotna easterly to McGrath along the old Iditarod Trail route. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.
- j. (EIN 23 C3, D1, D9) An easement for an existing access trail twenty-five (25) feet in width from the Iditarod Trail near Takotna in Sec. 35, T. 34 N., R. 36 W., Seward Meridian, northeasterly to public land in Sec. 35, T. 28 S., R. 15 E., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.
- k. (EIN 48 E) An easement for an existing access trail twenty-five (25) feet in width from the Ophir Road in Sec. 16, T. 32 N., R. 35 W., Seward Meridian, southerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.
- l. (EIN 51 C5) An easement sixty (60) feet in width from an existing road from Sec. 6, T. 28 S., R. 13 E., Kateel River Meridian, southeasterly through the selection area and connecting Sterling Landing to the Ophir mining district. The uses allowed are those listed above for a sixty (60) foot wide road easement.
- m. (EIN 51a C5) An easement sixty (60) feet in width from an existing spur road from the Ophir Road in Sec. 4, T. 33 N., R. 36 W., Seward Meridian, easterly to Takotna. The uses allowed are those listed above for a sixty (60) foot wide road easement.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;
2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec.

6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

MTNT, Ltd. (for the village of Takotna) is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 63,843 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 5,277 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above shall be granted to Doyon, Limited when conveyance is granted to MTNT, Ltd. of the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following water bodies within the described lands are considered to be navigable:

The Takotna River was determined to be navigable, and the Innoko River was determined to be navigable downstream from its confluence with Independence Creek.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the *Federal Register* and once a week, for four (4) consecutive weeks, in the *Anchorage Times*. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Steet, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.
2. Any unknown parties, and parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return

receipt shall have until May 2, 1979 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. For further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are:

MTNT, Ltd., Box 104, McGrath, Alaska 99627.
Doyon, Limited, First and Hall Streets,
Fairbanks, Alaska 99701.

State of Alaska, Department of Transportation and Public Facilities, Pouch P, Juneau, Alaska 99811.

Willa May Shore,
Acting Chief, Branch of Adjudication.

[F-14942]

[FR Doc. 79-9992 Filed 3-30-79; 8:45 am]

BILLING CODE 4310-84-M

Alaska Native Claims Selection

On December 18, 1971, section 11 of the Alaska Native Claims Settlement Act (85 Stat. 688, 696; 43 U.S.C. 1601, 1610 (Supp. V, 1975)), withdrew the lands surrounding the village of Telida for Native selection.

On November 27, 1974, Seseui, Inc. filed selection application F-14945-A under the provisions of section 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611(a) (Supp. V, 1975)), for the surface estate of certain lands located near Telida. On November 15, 1976, the individual corporations for the Native villages of McGrath, Telida, Nikolai and Tokotna consolidated, forming a single new corporation; MTNT, Ltd.

On December 29, 1976, the State of Alaska filed general purposes selection applications AA-12630, AA-12633 and AA-12644 pursuant to section 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1970)), for certain lands near the Native village of Telida. Section 6(b) entitles the State to select from public lands which are "vacant, unappropriated and unreserved at the time of their selection."

The following described lands has been previously properly selected under village selection application F-14945-A

and, therefore, were unavailable for selection by the State. Accordingly, the following State selection applications must be and hereby are rejected as to the following described lands:

Kateel River Meridian, Alaska (Unsurveyed)

AA-12630

T. 23 S., R. 28 E.,
Secs. 22 and 23, all;
Secs. 25 and 26, all;
Secs. 35 and 36, all.

Containing approximately 3,840 acres.

AA-12633

T. 25 S., R. 30 E.,
Secs. 1 and 16, inclusive, all;
Secs. 18 and 19, all.

Containing approximately 11,352 acres.

Fairbanks Meridian, Alaska (Unsurveyed)

AA-12644

T. 17 S., R. 28 W.,
Secs. 13 and 30, inclusive, all.

Containing approximately 11,400 acres.

The State selected lands herein aggregate approximately 26,592 acres, none of which were properly selected by the State of Alaska prior to the lands' being withdrawn and selected under the Alaska Native Claims Settlement Act. Further action on the subject State selection applications, as to those lands not rejected herein, will be taken at a later date.

As to the lands described below, the application submitted by Seseui, Inc. is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to section 12(a), aggregating approximately 66,050 acres, is considered proper for acquisition by MTNT, Ltd., and is hereby approved for conveyance pursuant to section 14(a) of the Alaska Native Claims Settlement Act:

Fairbanks Meridian, Alaska (Unsurveyed)

T. 17 S., R. 28 W.,
Secs. 13 and 30, inclusive, all.

Containing approximately 11,400 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 23 S., R. 28 E.,
Secs. 22 and 23, all;
Secs. 25 and 26, all;
Secs. 35 and 36, all.

Containing approximately 3,840 acres.

T. 23 S., R. 29 E.,
Sec. 36, excluding Native allotment F-17318 Parcel A.

Containing approximately 560 acres.

T. 24 S., R. 29 E.,

Secs. 1 and 4, inclusive, all;
 Secs. 5 and 8, inclusive, excluding the Swift Fork Kuskokwim River;
 Secs. 9 and 13, inclusive, all;
 Sec. 14, excluding Native allotment F-17258 Parcel B;
 Sec. 15, excluding Native allotment F-17258 Parcels A and B;
 Sec. 16, all;
 Secs. 17 and 20, inclusive, excluding the Swift Fork Kuskokwim River;
 Secs. 21 and 27, inclusive, all;
 Sec. 28, excluding Native allotment F-17258 Parcel C and that portion of the Swift Fork Kuskokwim River downstream of the village of Telida;
 Secs. 29 and 30, inclusive, excluding the Swift Fork Kuskokwim River;
 Secs. 31 and 36, inclusive, all.

Containing approximately 22,844 acres.

T. 25 S., R. 29 E.,
 Secs. 1, 12, 13 and 24, all.

Containing approximately 2,560 acres.

T. 23 S., R. 30 E.,
 Sec. 31, all.

Containing approximately 640 acres.

T. 24 S., R. 30 E.,
 Secs. 2 to 11, inclusive, all;
 Secs. 14, 15 and 16, all;

Sec. 17, excluding Native allotment F-17185 Parcel A;
 Sec. 18, all.

Containing approximately 9,695 acres.

T. 25 S., R. 30 E.,
 Secs. 1 to 16, inclusive, all;
 Secs. 18 and 19, all.

Containing approximately 11,352 acres.

T. 25 S., R. 31 E.,
 Secs. 6, 7, 18 and 19, all.

Containing approximately 3,159 acres.
 Aggregating approximately 66,050 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)).
 2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14945-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.
- 25 Foot Trail**—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 1 C3, D9) An easement for an existing access trail twenty-five (25) feet in width from Telida northeasterly toward Lake Minchumina. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 2 C5) An easement for an existing access trail twenty-five (25) feet in width from Telida northwesterly to public lands in Sec. 34, T. 23 S., R. 28 E., Kateel River Meridian. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 5 D1, D9) An easement for an existing access trail twenty-five (25) feet in width from Telida southwesterly to Nikolai. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

d. (EIN 6 C3, D9) An easement for an existing access trail twenty-five (25) feet in width from Telida southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 7 D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 28, T. 24 S., R. 29 E., Kateel river Meridian, on the left bank of the Swift Fork Kuskokwim River at or near Telida village. The uses allowed are those listed above for a one (1) acre site.

f. (EIN 9 C3., D9) A site easement upland of the ordinary high water mark in Sec. 17, T. 24 S., R. 30 E., Kateel River Meridian, at the junction of Swift Fork Kuskokwim and Highpower Creek. The site is one (1) acre in size with an additional 25-foot wide easement on the bed of the stream along the entire waterfront of the site. The uses allowed are those listed above for a one (1) acre site.

g. (EIN 9a C5) An easement for a proposed access trail twenty-five (25) feet in width from trailhead EIN 9 C3, D9 on Highpower Creek easterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;
2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANSCA, any valid existing right recognized by NSCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirement of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

MTNT, Ltd. (for the village of Telida) is entitled to conveyance of 69,120 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date approximately 66,050 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 3,070 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance to the subsurface estate of the lands described above shall be granted to Doyon, Limited when conveyance is granted to MTNT, Ltd. for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following water body within the described lands is considered to be navigable:

The Swift Fork Kuskokwim River from its mouth upstream to the village of Telida.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the *Federal Register* and once a week, for four (4) consecutive weeks, in the *Fairbanks Daily News-Miner*. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501; also:

1. any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.
2. Any unknown parties, and parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until May 2, 1979 to file an appeal.
3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau

of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served with a copy of the notice of appeal are:

MTNT, Ltd., Box 104, McGrath, Alaska 99627.
Doyon, Limited, First and Hall Streets,
Fairbanks, Alaska 99701.

State of Alaska, Division of Lands, 323 East fourth Avenue, Anchorage, Alaska 99501.

Willie May Shore,
Acting Chief, Branch of Adjudication.

[F-14945A]

[FR Doc. 79-9993 Filed 3-30-79; 8:45 am]

BILLING CODE 4310-84-

National Park Service

Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, purposes to negotiate a concession contract with Blue Mesa Lake Marinas, Inc., authorizing it to continue to provide concession facilities and services for the public at Curecanti National Recreation Area, Colorado, for a period of approximately ten (10) years from January 1, 1978. Mr. Franklin LeFevre has been operating the concession as a sole proprietorship, doing business as LeFevre Enterprises, and has changed his business entity to Blue Mesa Lake Marinas, Inc., a Colorado corporation. There has been no change in the operation or management of the concession with the change of the business entity.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Regional Office, Rocky Mountain Regional Office, 655 Parfet Street, P.O. Box 25287, Denver, Colorado 80225.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation to time on December 31, 1977, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the

renewal of the contract and in the negotiation of a new contract. This provision, in effect grants Blue Mesa Marinas, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if, thereafter, the offer of Blue Mesa Marinas, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract. Dated: March 28, 1979.

Daniel J. Tobin, Jr.,
Associate Director, National Park Service.

[FR Doc. 79-9839 Filed 3-30-79; 8:45 am]

BILLING CODE 4310-70-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

NASA Advisory Council (NAC) Space and Terrestrial Applications Advisory Committee (STAAC); Meeting

The *Ad Hoc* Informal Advisory Subcommittee on Agriculture, Land Cover and Hydrology of the NAC-STAAC will meet on April 19 and 20, 1979 at NASA Headquarters, Room 226A, Federal Office Building 10B, 600 Independence Avenue, S.W., Washington, D.C. 20546. The meeting is open to the public. Members of the public will be admitted to the meeting on both days on a first-come, first-served basis and will be required to sign a visitors' register. The seating capacity of the meeting room is for 35 persons.

This Subcommittee, chaired by Dr. Robert M. Ragan, is comprised of ten members of the NAC-STAAC and will review and discuss the Five Year Plan for Land Resources Research, the goals, strategies and issues, as well as other related research areas.

The approved agenda for the meeting is as follows:

April 19, 1979

Time and Topic

9:00 am, Chairperson's Remarks.
9:30 am, Review of the FY 1980 Budget.
10:00 am, NASA Response to Subcommittee Recommendations.
11:00 am, Update on Agriculture and Resources Inventory. Surveys Through Aerospace Remote Sensing (AGRISTARS).

1:00 pm, Review of Integrated Soil Moisture Plan.
2:00 pm, Review of NASA's Five Year Land Resources Research Plan including Goals and Issues.
3:30 pm, Discussion.
4:30 pm, Adjourn.

April 20, 1979

8:00 am, NASA's On-going Research Activities in Land Resources.
11:30 am, FY 1980 Research Strategy.
1:00 pm, Discussion.
2:30 pm, Conclusions and Recommendations.
3:00 pm, Adjourn.

For further information regarding the meeting, please contact Louis B. C. Fong, Executive Secretary of the Subcommittee, Washington, D.C., at (202) 755-7450.

March 28, 1979.

Arnold W. Frutkin,
Associate Administrator for External Relations.

[Notice (79-37)]

[FR Doc. 79-9939 Filed 3-30-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON SOCIAL SECURITY

Special CPI for the Elderly; Meeting

The National Commission on Social Security will hold a public meeting at Washington, D.C. on April 18, 1979 in Room 2010 of the New Executive Office Building at 17th and H Street, N.W. The Commission will receive a briefing from Department of Labor officials on a special CPI for the elderly and will discuss the special report required by Section 361 of Pub. L. 95-216.

The meeting will begin at 9:00 a.m. and continue until Commission business is completed but not later than 5:00 p.m. The meeting will be open to the public, in accordance with the Federal Advisory Committee Act.

Additional information about the meeting may be obtained from the Commission office: Room 131-A, Pension Building, 440 G Street, N.W., Washington, D.C. 20218, Phone: 376-2622.

Francis J. Crowley,
Executive Director.

[FR Doc. 79-9941 Filed 3-30-79; 8:45 am]

BILLING CODE 6820-AC-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Dance Advisory Panel; Amended Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance

Advisory Panel to the National Council on the Arts announced in the **Federal Register**, Vol. 44, No. 50—Tuesday, March 13, 1979 has been amended to include an open session for the public. The meetings will be held as announced on March 31, 1979, from 8:30 a.m. to 7:00 p.m., April 1, 1979, from 8:30 a.m. to 7:30 p.m., April 2, 1979, from 8:30 a.m. to 6:00 p.m., and April 3, 1979, from 8:30 a.m. to 6:00 p.m., in room 1422, 2401 E St., N.W., Washington, D.C. A portion of this meeting will be open to the public on April 3, 1979, from 3:00 p.m. to 4:00 p.m. The topic of discussion will be Dance Touring Program Guidelines.

The remaining sessions of this meeting on March 31, 1979, from 8:30 a.m. to 7:00 p.m., April 1, 1979, from 8:30 a.m. to 7:30 p.m., April 2, 1979, from 8:30 a.m. to 6:00 p.m., and April 3, 1979, from 8:30 a.m. to 3:00 p.m. and 4:00 p.m. to 6:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

March 28, 1979.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-9970 Filed 3-30-79; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Procedures Subcommittee; Meeting Postponed

The April 4, 1979 meeting of the ACRS Procedures Subcommittee, scheduled to be held in Washington, DC, has been postponed indefinitely. Notice of this meeting was published on March 20, 1979 (44 FR 16986).

Dated: March 28, 1979.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-10024 Filed 3-30-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Consideration of Class-9 Accidents; Meeting Postponed

The ACRS Subcommittee on Consideration of Class-9 Accidents has postponed indefinitely the meeting scheduled to be held on April 4, 1979 in Washington, D.C. Notice of this meeting was published on March 20, 1979 (44 FR 16985).

Dated: March 28, 1979.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-10025 Filed 3-30-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on the Three Mile Island Nuclear Station, Unit 2; Meeting

The ACRS Subcommittee on the Three Mile Island Nuclear Station, Unit 2, will hold a meeting on April 4, 1979 in Room 1046, 1717 H St., NW, Washington, DC 20555 to discuss an incident which occurred at this station on March 28, 1979 resulting in release of primary coolant into the containment and the declaration of a general emergency by the operators at this station.

This meeting notice is being published on an emergency basis (less than 15 days prior notice) since this unexpected incident is a matter which warrants consideration by the full Committee during its regularly scheduled meeting on April 5-7, 1979 and a Subcommittee meeting prior to April 5, 1979 is required to review the plant status and the actions taken to limit the risk to the public.

In accordance with the procedures outlined in the **Federal Register** on October 4, 1978, (43 FR 45926), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Wednesday, April 4, 1979

2:00 p.m. until the conclusion of business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Metropolitan Edison Company, et al, and their consultants, pertinent to this review. The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered. In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Ragnwald Muller, (telephone 202/634-1413) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning this nuclear station can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555 and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, PA 17126.

Dated: March 28, 1979.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-10023 Filed 3-30-79; 8:45 am]

BILLING CODE: 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal

Reports Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, or extensions. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out; Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements of forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this

process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—Peter Gness—245-7488

New Forms

Health Resources Administration
Evaluation of the Impact of P.L. 94-484 on the Distribution of Residencies (4 Forms)

Single time

Medical school residency programs;

1,387 responses; 450 hours

Richard Eisinger, 395-3214

National Institute of Education
Worker Education and Training Study
NIE 207

Single time

Adult workers; 800 responses; 600 hours

Off. of Federal Statistical Policy and Standard, 673-7974

National Institutes of Health

*Health Scientist Administrator/Grants

Associate Preemployment Inquiry

On occasion

Past and present supervisors; 3,000

responses; 1,000 hours

Richard Eisinger, 395-3214

Office of Human Development
Job-Related Information Data Sheet

Single time

Rehabilitation counselor; 500 responses;

59 hours

Barbara F. Reese, 395-6132

Extensions

Office of Human Development

*Survey of Research and Programs in

Child Abuse and Neglect

OS-33-75

Annually

Child abuse and neglect research

projects and programs; 4,690 responses;

2,345 hours

Barbara F. Reese, 395-6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—John Kalagher—755-5184

New Forms

Housing Production and Mortgage

Credit

Tenant Characteristics and Occupancy

Program Evaluation

Single time

Quasi-gov't agency public housing authorities; 434 responses; 195 hours
Arnold Strasser, 395-5080

Policy Development and Research
Baseline Survey for Multifamily Sweat Equity Homesteading Projects
Single time

Household in lower East side
Manhattan and South Bronx; 600
responses; 200 hours

Arnold Strasser, 395-5080

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341

New Forms

Bureau of Labor Statistics

*Quick Response Survey on Labor

Disturbances¹

BLS-3100

On occasion

Firms in mfg.; 21,000 responses; 3,500
hours

Arnold Strasser, 395-5080

Revisions

Employment and Training

Administration

*Semi-Monthly Enrollment Levels of On-

Board PSE CETA Participants

ETA-17

Monthly

State and local agencies; 5,520

responses; 1,380 hours

Budget Review Division, 395-4775

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Howard Smith—376-0436

New Forms

Treasurer of the United States

Antirecession Special Report

TD F 90-18.4

Semi-annually

Recipients of antirecession funds; 60,000

responses; 30,000 hours

Susan B. Geiger, 395-5867

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-10048 Filed 3-30-79; 8:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

La Jose, Pennsylvania; Notice and Order of Filing of Appeal

Issued March 27, 1979.

In the Matter of: La Jose, Pennsylvania 15753 (Mrs. William Heffler, Petitioner).

On March 22, 1979, the Commission received a handwritten letter from Mrs.

¹ This report has already been approved for use by OMB because of urgent need as described by the requesting agency. Public comments will still be carefully considered, and any changes indicated will be made either immediately or in the next revision of the report, as warranted.

William Heffler, a citizen of La Jose, Pennsylvania, (hereinafter "Petitioner"), concerning the alleged plans of the United States Postal Service to close the La Jose, Pennsylvania post office. Although the letter makes no explicit reference to the Postal Reorganization Act, we believe it should be liberally construed as a petition for review pursuant to § 404(b) of the Act [39 U.S.C. § 404(b)]. We do so in order to preserve petitioner's right to appeal, which is subject to a 30-day time limit.¹ The petition apparently was written by a layman, rather than by an attorney, and it does not conform exactly to the Commission's rules of practice, which also require that a petitioner attach to the petition a copy of the Postal Service's final determination.² However, § 1 of the Commission's rules of practice calls for a liberal construction of the rules to secure just and speedy determination of issues.³

The Act requires that the Postal Service provide the affected community with at least 60 days' notice of a proposed post office closing so as to "... insure that such persons will have an opportunity to present their views."⁴ The petition requests that the decision to close the La Jose post office be reversed. From the face of the petition, it is unclear whether the Postal Service provided 60 days' notice, whether any hearings were held, or whether a determination has been made under 39 U.S.C. § 403(b)(3). (Petitioner failed to supply a copy of the Postal Service's final determination, if one is in existence.) The Commission's rules of practice require the Postal Service to file the administrative record of the case within 15 days after the date on which the petition for review is filed with the Commission.⁵

The Postal Reorganization Act states: The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities.⁶

¹ 39 U.S.C. § 404(b)(5). 39 U.S.C. § 404(b) was added to title 39 by Pub. L. 94-421 (September 24, 1976), 90 Stat. 1310-1311. Our rules of practice governing these cases appear at 39 C.F.R. § 3001.110 *et seq.*

² 39 C.F.R. § 3001.111(a).

³ 39 C.F.R. § 3001.1.

⁴ 39 U.S.C. § 404(b)(1).

⁵ 39 C.F.R. § 3001.113(a). The Postal Rate Commission informs the Postal Service of its receipt of such an appeal by issuing PRC Form No. 56 to the Postal Service upon receipt of each appeal.

⁶ 39 U.S.C. § 101(b).

Section 404(b)(2)(C) of the Act specifically includes consideration of this goal in determinations by the Postal Service to close post offices. The effect on the community is also a mandatory consideration under § 404(b)(2)(A) of the Act. The Petitioner asserts that the La Jose post office serves the largest coal company in Pennsylvania, that the citizens of the community wish the post office to remain open and that mail is much safer in the post office, rather than in a mail box on a rural route. The petition appears to set forth the Postal Service action complained of in sufficient detail to warrant a determination whether the Service complied with its own regulations for the closing of post offices.⁷

The Act does not contemplate appointment of an Officer of the Commission in § 404(b) cases, and none is being appointed.⁸

The Commission Orders: (A) The letter of March 22, 1979, from Mrs. William Heffler shall be construed as a petition for review pursuant to § 404(b) of the Act [39 U.S.C. § 404(b)].

(B) The Secretary of the Commission shall publish this Notice and Order in the Federal Register.

(C) The Postal Service shall file the administrative record in this case on or before April 6, 1979, pursuant to the Commission's rules of practice [39 CFR § 3001.113(a)].

By the Commission.

David F. Harris,
Secretary.

Appendix

March 22, 1979, filing of petition.
March 27, 1979, notice and order of filing of appeal.

April 6, 1979, Filing of record by Postal Service [see 39 CFR § 3001.113(a)].
April 11, 1979, last day for filing of petitions to intervene [see 39 CFR § 3001.111(b)].
April 23, 1979, petitioners' initial brief [see 39 CFR § 3001.115(a)].

May 8, 1979, Postal Service answering brief [see 39 CFR § 3001.115(b)].

May 23, 1979, (1) petitioners' reply brief, if petitioners choose to file such brief [see 39 CFR § 3001.115(c)].

(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument. July 20, 1979, expiration of 120-day decisional schedule [see 39 U.S.C. § 404(b)(5)].

[Docket No. A79-10]

[FR Doc. 79-9848 Filed 3-30-79; 8:45 am]

BILLING CODE 7715-01-M

⁷ 42 Fed. Reg. 59079-59085 (11/17/77); the Commission's standard of review is set forth at 39 U.S.C. § 404(b)(5).

⁸ In the Matter of Gresham, S.C., Route #1, Docket No. A78-1 (May 11, 1978).

Tippo, Miss.; Order To Extend the Time for Filing Briefs

March 27, 1979.

In the Matter of: Tippo, Mississippi 38962.

By letter dated March 19, 1979, petitioner requested a one-week extension to the time period for filing the petitioner's brief in the case of Tippo, Mississippi 38962, Docket No. A79-4. The request states that the time is needed to investigate the facts and law involved and to prepare the brief.¹

The request is granted and the Postal Service will be given a one-week extension of time to file its brief. The time for filing a reply brief, should the petitioner choose to file one, is also extended one week.²

It is ordered: That the time for filing the petitioner's brief be extended by one week; the time for filing the Postal Service's answering brief is extended one week, to April 10, 1979; and the time for filing a petitioner's reply brief is extended one week, to April 25, 1979. By the Commission.

David F. Harris,
Secretary.

[Docket No. A79-4]

[FR Doc. 79-9847 Filed 3-29-79; 8:45 am]

BILLING CODE 7715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA) Special Committee 143—Installation of Emergency Locator Transmitters (ELT) in Aircraft, Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Special Committee 136 on Installation of Emergency Locator Transmitters in Aircraft (ELT) to be held April 24 through 26, 1979, in RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Third Meeting held December 12 through 14, 1978; (3) Working Group Reports; (4) Working Groups meet in separate Sessions; (5) Assignment of Tasks; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman,

¹ The PRC received petitioner's brief on March 26, 1979.

² For the original schedule, see 44 Fed. Reg. 12791 (March 8, 1979).

members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on March 23, 1979.

Karl F. Biersch,
Designated Officer.

[FR Doc. 79-8634 Filed 3-30-79; 8:45 am]

BILLING CODE 4910-13-M

TREASURY DEPARTMENT

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1954, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954). This list is the same as the list published in the January 4, 1979, *Federal Register*.

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954).

Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, Yemen, Arab Republic, and Yemen, Peoples Democratic Republic of.

Dated: March 20, 1979.

Donald C. Lubick,

Assistant Secretary (Tax Policy).

[FR Doc. 79-9184 Filed 3-30-79; 8:45 am]

BILLING CODE 4810-25-M

INTERSTATE COMMERCE COMMISSION

Assignment of Hearings

March 28, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An

attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC-119619 (Sub No. 128F), Distributors Service Co., now assigned for hearing on June 6, 1979 (3 days) at Buffalo, New York in a hearing room to be later designated.

No. MC-52214 (Sub No. 1F), Reliable Transport (U.S.) Limited now assigned for hearing on June 11, 1979 (1 week) at Buffalo, New York in a hearing room to be later designated.

No. MC 124821 (Sub No. 26F) William Gilchrist and No. MC 124920 (Sub-No. 14), La Bar's Inc., now assigned for hearing on April 16, 1979, at Philadelphia, PA will be held at the U.S. District Court, New U.S. Courthouse, 601 Market Street.

No. MC 115826 (Sub No. 299F), W. J. Digby, Inc., now assigned April 11, 1979, at Dallas, Texas is canceled transferred to Modified Procedure.

No. MC 145122F, Skyland Inc., now assigned April 17, 1979, at Detroit, Michigan is canceled transferred to Modified Procedure.

No. MC 82063 (Sub No. 94F), Klipsch Hauling Co., now assigned for hearing on April 9, 1979 at Dallas, Texas and will be held in Room 5A15-17, Federal Building.

No. MC 121496 (Sub No. 11F), Congo Corporation, now assigned for hearing on April 9, 1979, at Dallas, Texas and will be held in Room 5A15-17, Federal Building.

No. 37095, Arthur Goldzweig, Et Al. V. Transport of New Jersey, Et Al, now assigned for hearing on April 9, 1979, at Marlboro, New Jersey and will be held in Marlboro Municipal Office's Meeting Room, Route 79 & Tennent Road.

No. MC 128527 (Sub No. 121F), May Trucking Company, now assigned for hearing on April 17, 1979, at Boise, Idaho and will be held in Owyhee Plaza Hotel, 11th & Main Streets.

H. G. Homme, Jr.,
Secretary.

[Notice No. 57]

[FR Doc. 79-9097 Filed 3-30-79; 8:45 am]

BILLING CODE 7035-01-M

Exemption Under Provision of the Mandatory Car Service Rules Ordered in Ex Parte No. 241

To all railroads:

It appearing, That certain of the railroads named below own numerous 50-ft. plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Aberdeen and Rockfish Railroad Company
Reporting Marks: AR.
Camino, Placerville & Lake Tahoe Railroad Company
Reporting Marks: CPLT.
City of Prineville
Reporting Marks: COP.
The Clarendon and Pittsford Railroad Company
Reporting Marks: CLP.
Duluth, Missabe and Iron Range Railway Company
Reporting Marks: DMIR.
East Camden & Highland Railroad Company
Reporting Marks: EACH.
Genesee and Wyoming Railroad Company
Reporting Marks: GNWR.
Greenville and Northern Railway Company
Reporting Marks: GRN.
Lake Superior & Ishpeming Railroad Company
Reporting Marks: LSI.
Lenawee County Railroad Company, Inc.
Reporting Marks: LCRG.
Louisiana Midland Railway Company
Reporting Marks: LOAM.
Louisville and Wadley Railway Company
Reporting Marks: LW.
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC.
Manufacturers Railway Company
Reporting Marks: MRS.
Middletown and New Jersey Railway Company, Inc.
Reporting Marks: MNJ.
New Orleans Public Belt Railroad
Reporting Marks: NOPB.
Oregon & Northwestern Railroad Co.
Reporting Marks: ONW.
Oregon, Pacific and Eastern Railway Company
Reporting Marks: OPE.
Pearl River Valley Railroad Company
Reporting Marks: PRV.
Peninsula Terminal Company
Reporting Marks: PT.
Raritan River Rail Road Company
Reporting Marks: RR.
Sacramento Northern Railway
Reporting Marks: SN.

St. Lawrence Railroad
Reporting Marks: NSL.
Sierra Railroad Company
Reporting Marks: SERA.
Terminal Railway, Alabama State Docks
Reporting Marks: T ASD.
The Texas Mexican Railway Company
Reporting Marks: TM.
XXX¹
Tidewater Southern Railway Company
Reporting Marks: TS.
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW.
Vermont Railway, Inc.
Reporting Marks: VTR.
WCTU Railway Company
Reporting Marks: WCTR.
Youngstown & Southern Railway Company
Reporting Marks: YS.
Yreka Western Railroad Company
Reporting Marks: YW.

Effective March 15, 1979, and continuing in effect until further order of this Commission. Issued at Washington, D.C., March 12, 1979. Interstate Commerce Commission.

Joel E. Burns,
Agent.

[Fifty-Ninth Revised Exemption No. 90]

[FR Doc. 79-9999 Filed 3-30-79; 8:45 am]

BILLING CODE FR-7035-01-M

Southern Pacific Transportation Co.; Exception

Decided: March 19, 1979.

By the Board:

Because of a shortage of power on the Southern Pacific Transportation Company (SP), the SP is temporarily unable to forward all cars within 60 hours as required by Section (a)(4)(i) of Second Revised Service Order No. 1332.

It is ordered, Pursuant to the authority vested in the Railroad Service Board by Section (a)(1)(v) of Second Revised Service Order No. 1332, the SP is required to forward loaded cars or empty foreign or private cars from the points named below within 72 hours.

SP: Roseville, California; Los Angeles, California; West Colton, California; El Paso, Texas; and Eugene, Oregon.

Effective 11:59 p.m., March 19, 1979.

Expires 11:59 p.m., March 31 1979.

Joel E. Burns,
Chairman, Railroad Service Board.

[Exception No. 17]

[FR Doc. 79-9998 Filed 3-30-79; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

March 23, 1979.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

NOTE: All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

MC 381 (Sub-17TA), filed February 28, 1979. Applicant: GENOVA EXPRESS LINES, INC., P.O. Box 136, Williamsburg, NJ 08094. Representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Common carrier: irregular routes, transporting Non-Ferrous metals, and materials, equipment and supplies used in the manufacture and sale of Non-Ferrous metals (except in dump vehicles), between the facilities of the Colonial Metals Co., at or near Columbia, PA on the one hand, and, on the other, points

in the US (except AK and HI). An underlying ETA seeks 90 days authority. Supporting Shipper(s): Colonial Metals Co., P.O. Box 311, Columbia, PA. Send protests to: District Supervisor, ICC, 428 East State Street, Room 204, Trenton, NJ 08608.

MC 531 (Sub-372TA), filed February 15, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Houston, TX 77021. Representative: Wray E. Hughes, 4904 Griggs Road, Houston, TX 77021. Common carrier over irregular routes. Vegetable oils, in bulk, in tank vehicles, from Weehawken, NJ to Vallejo, CA. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Agricom Oilseeds, Inc., P.O. Box 2823, San Francisco, CA 94126. Send protests to: John F. Mensing, Interstate Commerce Commission, 515 Rusk Ave., 8610 Federal Bldg., Houston, Tx. 77002.

MC 550 (Sub-9TA), filed February 16, 1979. Applicant: RUDIE WILHELM WAREHOUSE CO., d/b/a WILHELM TRUCKING CO., 3250 N. W. St. Helens Road, P.O. Box 10363, Portland, OR 97210. Representative: Robert Wilhelm, Jr. (same address as applicant). General commodities (except explosives, blasting supplies, and motor vehicles) in containers, having an immediate prior or subsequent movement by water, between points in OR and WA, on the one hand, and on the other, points in OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are five shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 730 (Sub-430TA), filed February 22, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 25 N. Via Monte, Walnut Creek, CA 94595. Representative: Edgar E. Reddick (same address as applicant). Automobile Parts and accessories as described in ICC-NMF 100. Between facilities of Ford Motor Company located at Detroit, MI and Norfolk, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ford Motor Company, One Parklane Blvd., Parklane Towers East, Suite 200, Dearborn, MI 48126. Send protests to: A. J. Rodriguez, DS, ICC, 211 Main Street, Suite 500, San Francisco, CA 94105.

No. MC 2900 (Sub-358TA), filed February 13, 1979. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr., P.O. Box 2408, Jacksonville, FL 32203. Authority sought

¹Texas, Oklahoma & Eastern Railroad Company deleted.

to operate as a common carrier, by motor vehicle, transporting: *General Commodities*, (except Classes A and B explosives, commodities in bulk, those requiring special equipment, those of unusual value, and household goods as defined by the Commission) as follows:

(A) *Irregular routes. General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Houston, Tex., on the one hand, and, on the other, points within an area of Texas bounded by a line beginning at Galveston and extending north along Interstate Highway 45 to Houston, thence along Interstate Highway 10 to Columbus, thence along Texas Highway 71 to Austin, thence along U.S. Highway 290 to Fredericksburg, thence along U.S. Highway 87 to San Antonio, thence along U.S. Highway 81 to Laredo, thence along the Rio Grande River to the Gulf of Mexico, and all points on the above specified highways. (B) *Regular routes. General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Oklahoma City, Okla. and Houston, Tex. serving no intermediate points and serving Dallas, Tex. for the purpose of joinder only: From Oklahoma City, Okla. over Interstate Highway 35 to Denton, Tex., thence over Interstate Highway 35E to Dallas, Tex.; and return over the same route. (2) Between Memphis, Tenn. and Houston, Tex. serving no intermediate points and serving Little Rock, Ark. for the purposes of joinder only: From Memphis, Tenn. over Interstate Highway 40 to Little Rock, Ark.; thence over Interstate Highway 30 to junction U.S. Highway 59; thence over U.S. Highway 59 to Houston, Tex.; and return over the same route. Applicant seeks (a) to serve all places in the commercial zone of each authorized point, (b) to tack this authority with that issued in MC-2900 and subs thereto, and (c) to interline. Supporting shippers: There are approximately 84 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C. or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor, G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

An underlying ETA seeks up to 90 days authority.

MC 2960 (Sub-26-TA), filed February 15, 1979. Applicant: ENGLAND TRANSPORTATION CO. OF TEXAS, 2301 McKinney St., Houston, TX 77023. Representative: E. Larry Wells, Winkle and Weels, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Common carrier over irregular routes. *Fertilizer, weed and tree killing compounds, insecticides and fungicides* in bags or packages from the facilities of Swift Agricultural Chemical Company in Shreveport, LA to points in TX. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Swift Agricultural Chemical Company, 111 W. Jackson Blvd., Chicago, IL 60604. Send protests to: John F. Mensing Interstate Commerce Commission 515 Rusk Avenue 8610 Federal Bldg. Houston, TX 77002.

MC 7840 (Sub-11TA), filed March 2, 1979. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper Street Watertown, NY 13601. Representative: Werner J. Steinaker 650 Cooper Street Watertown, NY 13601. (1) *Rolls pulpboard and scrap paper*, between Carthage, NY and St. Louis, MO, and, (2) *Folding boxes in cartons and scrap paper*, Between Castorland, NY and Portsmouth, OH. for 180 days. Underlying ETA was granted under R-14 for 30 + 2 with effective date of February 22, 1979. Supporting Shipper(s) Carthage Paper Makers Division, Mr. Richard G. Woods, Gen. Mgr. Carthage, NY 13619. Climax Manufacturing Co., Mr. Harry E. Bracken, Distribution Mgr. Castorland, NY 13620. Send protests to: Interstate Commerce Commission U.S. Courthouse & Federal Bldg. 100 S. Clinton St.-Rm. 1259 Syracuse, NY 13260.

MC 13700 (Sub-8TA), filed February 20, 1979. Applicant: ROOKS TRANSFER LINES, INC., 650 East 16th Street Holland, MI 49423. Representative: Neil R. Wimbush 650 East 16th Street Holland, MI 49423. Common Carrier, by motor vehicle, over regular routes, transporting *General Commodities*, except those of unusual value, classes A and B explosives, household goods as defined by The Commission, livestock, commodities in bulk and those requiring special equipment; between Muskegon MI and Montague, MI; from Muskegon over U.S. Hwy 31 to Montague, and return over the same route, serving all intermediate points. Applicant requests authority to tack and combine all of the above referenced authority with its authorized operation, and to interline with other carriers, for 180 days. An underlying ETA seeks 90 days authority.

SUPPORTING SHIPPER(S): Whitehall Leather Co., Whitehall, MI 49461; Howmet Turbine Components Corp., 1 Misco Drive, Whitehall, MI 49461; E. I. DuPont DeNemou & Co., Montague, MI 49437. SEND PROTESTS TO: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 27580 (Sub-6TA), filed March 1, 1979. Applicant: JOSEPH CORY DELIVERY SERVICE, INC. 21 West Street New York, NY 10006. Representative: Morton E. Kiel Suite 6193 5 World Trade Center New York, NY 10048. *Uncrated furniture*, between Jersey City, NJ, on the one hand, and, on the other points in RI, and those in MA on and east of Massachusetts Highway 12, for 180 days. Supporting Shipper(s): John Stuart Furniture, Inc. 979 Third Avenue New York, NY 10022. Send protests to: Maria B. Kejss, Transportation Assistant Interstate Commerce Commission 26 Federal Plaza New York, N.Y. 10007.

MC 29910 (Sub-203TA), filed February 9, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC. 301 South 11th Street Forth Smith, AR 72901. Representative: Don A. Smith P.O. Box 43-510 North Greenwood Fort Smith, AR 72902. (1) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds*, (except in bulk, in tank vehicles), and filters, from points in Warren County, MS to points in the United States (except Alaska and Hawaii), and (2) *Petroleum, petroleum products, vehicle body sealer and/or sound deadener compounds, filters, materials, supplies and equipment* as are used in the manufacture, sale and distribution of the commodities named in (1) above (except in bulk, in tank vehicles), from points in AL, GA, IL, IN, KY, NY, OH, OK, PA, RI, SC, VA, and WV to points in Warren County, MS. Restricted in Parts (1) and (2) to shipments originating at or destined to the facilities of Quaker State Oil Refining Corp., located in Warren County, MS. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Quaker State Oil Refining Corp. P.O. Box 989 Oil City, PA 16301. Send protests to: William H. Land, Jr., District Supervisor 3108 Federal Office Building 700 West Capitol Little Rock, AR 72201.

MC 29910 (Sub-204TA), filed February 15, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Forth Smith, AR 72901. Representative: Joseph K. Reber (same as applicant). *Agricultural chemical*, (except in bulk), between Great Meadows, NJ, on the one hand, and on

the other, points in the United States (except AK and HI), for 180 days as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting Shipper(s): BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, NJ 07054. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 29910 (Sub-205TA), filed February 21, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South Eleventh Street, Forth Smith, AR 72901. Representative: Joseph K. Reber (same as applicant). *Ground clay* (except in bulk), from the plantsite of Lowe's, Inc. at or near Bloomfield, MO, to points in AR, KS, NE, OK, and TX, for 180 days, as a common carrier over irregular routes.

An underlying ETA seeks 90 days authority. Supporting Shipper(s): Lowe's, Inc., 348 So. Columbia St., South Bend, IN 46801. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 38481 (Sub-12TA), filed February 15, 1979. Applicant: FARRUGGIO'S BRISTOL & PHILADELPHIA AUTO EXPRESS, INC., 1419 Radcliff St., Bristol, PA 19007. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *Sponge rubber carpet padding*, from the facilities of General Felt Industries, Inc. in Trenton, NJ to points in PA. *Carpet adhesives* from the facilities of General Felt Industries, Inc. in Camden, NJ to points in PA, for 180 days. Supporting Shipper(s): General Felt Industries, Inc., Park 80 Plaza West, Saddlebrook, NJ 07662. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Phila., PA 19108.

MC 44801 (Sub-11TA), filed February 22, 1979. Applicant: DICK HARRIS & SON TRUCKING CO., INC., P.O. Box 10277, Lynchburg, VA 24505. Representative: Morton E. Kiel, Suite 6193—5 World Trade Center, New York, NY 10048. *Such commodities as are produced or used by a printing plant*, between Lynchburg, VA and Des Moines, IA for 180 days. An underlying ETA seeks up to 90 days authority. Supporting Shipper(s): Meredith/Burda, Inc., 4201 Murray Place, Lynchburg, VA 24506. Send protests to: Paul D. Collins, DS, ICC, 400 North 8th Street, Richmond, VA 23240.

MC 48441 (Sub-31TA), filed February 12, 1979. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805

Mc Lachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. *Corrugated steel containers and steel skids*, from Streator, IL to points in MI, IN, OH, MN, KY and WI. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Streator Dependable Manufacturing Co., 410 West Broadway, Streator, IL 61364. Send protests to: Annie Booker, Transportation Assistant Interstate Commerce Commission, Everette McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 57880 (Sub-19TA), filed February 13, 1979. Applicant: ASHTON TRUCKING CO., P.O. Box 472, 1245 North Highway 285, Monte Vista, CO 81144. Representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. (1) *Potato products and starches* from points in Rio Grande County, CO to Trenton, MO; Dallas, TX; Santa Cruz and Cucamonga, CA; Decatur and Chicago, IL; Appleton and Port Edwards, WI; Fort Smith and Ashdown, AR; and (2) *Materials, supplies, ingredients and equipment* used in the processing, sale or distribution of potato products and starches in the reverse direction, for 180 days. Supporting Shipper(s): Nonpareil Processing Corporation, P.O. Box 169, Monte Vista, CO 81144, and A. E. Staley Manufacturing Co., 2200 East El Dorado Avenue, Decatur, IL 62525. Send protests to: District Supervisor Herbert C. Ruoff, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

MC 56270 (Sub-22TA), filed March 1, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., 1401 55 State St., P.O. Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek, ("same address as applicant") *Such commodities as are manufactured, processed, sold, used, distributed or dealt in by Fort Howard Paper Co., a manufacturer of sanitary paper products (except commodities in bulk)*, between facilities of Fort Howard Paper Co. located at or near Green Bay, WI on the one hand, and on the other, points in IL, IN, IA, MI, MN, & OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Fort Howard Paper Co., 1919 S. Broadway, Green Bay, WI 54305. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 59680 (Sub-222TA), filed February 28, 1979. Applicant: STRICKLAND

TRANSPORTATION CO., INC., 11353 Reed Hartman Highway, Cincinnati, OH 45241. Representative: Milton H. Bortz (same as applicant). *Common carrier*: Regular routes: *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)*, between Memphis, TN, and the site of the terminal facilities of Wilson Freight Company located at or near South Charleston, OH: from Memphis, TN, over Interstate Hwy 40 to junction Interstate Hwy 65, then over Interstate Hwy 65 to Junction Interstate Hwy 71, then over Interstate Hwy 71 to junction OH Hwy 48, then over OH Hwy 48 to junction U.S. Hwy 42, then over U.S. Hwy 42 to the site of the terminal facilities of Wilson Freight Company located at or near South Charleston, OH, and return over the same route, for 180 days. Applicant intends to interline at Memphis, TN, and South Charleston, OH, and intends to tack the authority sought herein with other authority held by applicant. Applicant has also filed an underlying ETA seeking 90 days authority. The purpose of the application is to add a South Charleston, OH, interline point with Wilson Freight Company which controls applicant under Temporary Authority granted in MC-F-13516. Applicant is authorized to operate as a common carrier in AR, CT, DE, IL, IN, KY, LA, MD, MA, MI, MS, NJ, NY, OH, OK, PA, RI, TN, TX, VA, WI, and DC. Supporting Shipper(s): Wilson Freight Company, James F. Silar, Vice President, Traffic, 11353 Reed Hartman Highway, Cincinnati, OH 45202. Send protests to: Paul J. Lowry, DS, ICC, 5514-B Federal Bldg., 550 Main St., Cincinnati, OH 45202.

MC 75320 (Sub-213TA), filed March 1, 1979. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *General Commodities (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment)*, over regular routes. 1. Between St. Louis, MO and Des Moines, IA From St. Louis over U.S. Hwy 61 to junction U.S. Hwy 218, near Keokuk, IA; over U.S. Hwy 218 to Junction U.S. Hwy 34 near Mt. Pleasant, IA; then over U.S. Hwy 34 to Ottumwa, IA; then over U.S. Hwy 63 to Oskaloosa, IA; then over U.S. Hwy 163 to Des Moines and return over the same route, serving no intermediate points.

2. Between Preston, MO and Des Moines, IA From Preston, MO over U.S. Hwy 65 to Des Moines, IA and return over the same route, serving no intermediate points, for 180 days. Applicant seeks ETA for 90 days authority. Applicant intends to tack at St. Louis and Preston, MO and points in their commercial zones. Applicant intends to interline with another carrier at St. Louis, Des Moines, and Preston, MO. Supporting Shipper(s): There are approximately 15 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies may be examined at the field office named below. Send protests to: DS John V. Barry, 600 Fed Bldg., 911 Walnut, Kansas City, MO 64106.

MC 85970 (Sub-21TA), filed February 16, 1979. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38107. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Popular Avenue, Memphis, TN 38137. (1) *Fireplaces, barbecues, grills and ventilators;* and (2) *parts and accessories for the commodities in (1) above between the facilities of Mobex Corporation at or near Union City, TN, on the one hand, and, on the other, points in the states of NM, CO, NE, ND, SD, and all states lying East thereof, for 180 days. Applicant intends to tack the authority here applied for to authority held by it in MC-85970 and subs thereunder. Supporting Shipper(s): Mobex Corporation, 4325 Artesia Avenue, Fullerton, CA 92633. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Street, Suite 2006, 100 North Main Building, Memphis, TN 38103.*

MC 85970 (Sub-22TA), filed February 16, 1979. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38107. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Popular Avenue, Memphis, TN 38137. (1) *Articles made totally or partially of plastic and items utilized in the sale or distribution thereof, from the facilities of the Tupperware Company located at or near Halls, TN to points in IL; and (2) items utilized in the sale, manufacture or distribution of the commodities in (1) above from points in IL to the facilities of the Tupperware Company located at or near Halls, TN, for 180 days. Applicant intends to tack the authority here applied for to authority held by it in MC-85970 and subs thereunder. Supporting Shipper(s): Tupperware Company, Div. of Dart Industries, Inc., P.O. Box 751, Woonsocket, RI 02895.*

Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Street, Suite 2006, 100 North Main Building, Memphis, TN 38103.

MC 88300 (Sub-35TA), filed February 6, 1979. Applicant: DIXIE TRANSPORT COMPANY, 1600 Talleyrand Avenue, Jacksonville, FL 32206. Representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601. *Automobiles and trucks in truckaway service, from Jacksonville, FL to points in AL, AR, MS, and SC and NC. Supporting Shipper(s): See attachment. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.*

MC 94350 (Sub-424TA), filed February 21, 1979. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Greenville, SC 29602. Representative: Mitchell King, Jr. (same as applicant). *Travel trailers and fifth-wheel travel trailers, from the plantsite of Skyline Corporation at or near Dewey, OK to points in AR, CO, IA, KS, MO, NE, OK and SD, for 180 days. Supporting Shipper(s): Skyline Corporation, 2520 By-Pass Road, Elkhart, IN 46515. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens Street, Columbia, SC 29201.*

MC 95490 (Sub-46TA), filed February 16, 1979. Applicant: UNION CARTAGE COMPANY 9A Southwest Cutoff, Worcester, MA 01604. Representative: Edward J. Kiley, 1730 M Street, N.E. Suite 501, Washington, DC 20036. *Plastic articles from Leominster, MA to Bridgeport, CT; Bethlehem and Scranton, PA; Baltimore and Halethorpe, MD; and Washington, DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Clearshield Plastics Co., 177 Florence Street, Leominster, MA 01453. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.*

MC 95540 (Sub-1090TA), file February 21, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636 Lakeland, FL 33802. Representative: Benjy W. Fincher, (same address as applicant). *Chain saws, snow-throwers and garden, lawn, turf and golf course care equipment from the facilities of the Toro Company at or near Windom, MN and Tomah, WI to points in AL, AR, FL, GA, KY (except Louisville), LA, MS, NC, SC, and TN for 180 days. Restricted to traffic originating at the named origins and destined to the named destinations. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Toro Company, 8111 Lyndale Avenue South, Minneapolis, MN 55420. Send protests to: Donna M.*

Jones, Transportation Assistant, Interstate Commerce Commission BOP, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 108461 (Sub-132TA), filed February 21, 1979. Applicant: SUNDANCE FREIGHT LINES, INC., 124 W. Thomas, P.O. Box 7676, Phoenix, Arizona 85011. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, Utah 84110. *General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, liquid commodities in bulk, and commodities requiring special equipment. Between Los Angeles, California and Ehrenberg, Arizona. From Los Angeles, California over Interstate Highway 10 to Ehrenberg, Arizona and return over the same route. Applicant requests that restrictions against interline and tacking be negated and that applicant be allowed to serve all commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack with MC-F-12753 and MC-108461. Applicant also intends to interline with another carrier at Ehrenberg, AZ. Supporting Shipper(s): NONE. Send protests to: Thomas Klobas, Acting District Supervisor, Interstate Commerce Commission, 2020 Federal Building, 230 North First Avenue, Phoenix, Arizona 85025.*

MC 108461 (Sub-133TA), filed February 21, 1979. Applicant: SUNDANCE FREIGHT LINES, INC., 124 West Thomas, Phoenix Arizona 85011. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, Utah. *General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, liquid commodities in bulk, and commodities requiring special equipment. Between Idaho Falls, Idaho and the Junction of U.S. Highway 91, Interstate 15, and Montana Highway 324, serving no intermediate points, and serving the points of Idaho Falls, Idaho and the junction of U.S. Highway 91 (Interstate 15) and Montana Highway 324 for the purpose of joinder only with the authorities of Lee M. Hawkes, d/b/a Lee Hawkes Transfer and Miller Bros. Truck Line, which authorities are subject to temporary lease by Sundance Freight Lines, Inc., d/b/a Sundance Transportation pursuant to Docket No. MC-F-12312. From Idaho Falls, Idaho to U.S. Highway 91 (Interstate 15) to Junction Montana Highway 324 and Interstate Highway 15 and return over same route. Applicant further requests that the restrictions against interline and tacking be negated; for 180 days. An*

underlying ETA seeks 90 days. Applicant intends to interline with another carrier at Idaho Falls, ID and junction US Hwy 91, Interstate Hwy 15 & Montana Hwy 324. Supporting Shipper(s): NONE. Send protests to: Thomas Klobas, Acting District Supervisor, Interstate Commerce Commission, 2020 Federal Building, 230 North First Avenue, Phoenix, Arizona 85025.

MC 109821 (Sub-58TA), filed February 27, 1979. Applicant: TAYNTON FREIGHT SYSTEM, INC., 40 Main Street, Wellsboro, PA 16901. Representative: Dewey T. Whitford (same address as applicant). (a) Containers, container ends and closures, (b) commodities manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers, and (c) material, equipment and supplies used in the manufacture and distribution of containers, container ends and closures (except in bulk), between points in CT, DE, IN, KY, MD, MA, NJ, NY, OH, PA, RI, VA, DC and WV, for 180 days. SUPPORTING SHIPPER: Brockway Glass Company, Inc., McCullough Ave., Brockway, PA 15824. SEND PROTESTS TO: P.J. Kenworthy, DS, ICC, 314 US Post Office Bldg., Scranton, PA 18503. Supporting Shipper(s): Brockway Glass Company, Inc. McCullough Ave., Brockway, PA 15824. Send protests to: P.J. Kenworthy, DS, ICC, 314 US Post Office Bldg., Scranton, PA 18503.

MC 111201 (Sub-38TA), filed February, 22, 1979. Applicant: J.N. ZELLNER & SON TRANSFER COMPANY, P.O. Box 91247, East Point, Georgia 30364. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, Georgia 30345. (a) Containers, container ends and closures; (b) commodities manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers; and (c) material, equipment and supplies used in the manufacture and distribution of containers, container ends and closures, between points in the United States in and east of MN, IA, MO, AR and LA. Restriction: The above authority is restricted (1) against the transportation of commodities in bulk, in tank vehicles, and (2) to apply only on shipments originated at or destined to a Brockway Glass Company, Inc. facility. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Brockway Glass Company, Inc. McCullough Avenue, Brockway, PA 15824. Send protests to: Sara K. Davis, Transportation Assistant,

ICC Room 300, 1252 West Peachtree Street, N.W., Atlanta, Georgia 30309.

MC 111401 (Sub-548TA), filed February 28, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Lubricating oils*, in bulk, in tank vehicles, from Kansas City, KS, to points in UT and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Phillips Petroleum Company, 154 Phillips Bldg. Annex, Bartlesville, OK 74004. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 114211 (Sub-399TA), filed February 14, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adeler J. Warren, P.O. Box 420, Waterloo, IA 50704. *Tractors (except tractors with vehicle beds, bed frames or fifth wheels), and attachments and parts therefor*, from the facilities utilized by Deere & Company at or near Gulfport, MS, to points in IA, IL, CO, KS, MO, NE, MN, OK and WY. Restricted to shipments destined to the facilities or dealerships of Deere & Company for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Deere & Company, John Deere Road, Moline, IL 61265. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114890 (Sub-88TA), filed February 22, 1979. Applicant: COMMERCIAL CARTAGE CO., 343 Axminster Dr., Fenton, MO 63026. Representative: David A. Cherry, P.O. Box 1540, Fenton, MO 63026. *Hydrofluosilicic acid*, in bulk, in tank vehicles, from E. St. Louis, IL to points in MI, IL, IN, KY, WI, TN, IA, NE, KS, OH, MO, and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Chemtech Industries, Inc., 9909 Clayton Rd., St. Louis, MO 63124. Send protests to: P. E. Binder, OC, ICC, Rm 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115311 (Sub-339TA), filed February 20, 1979. Applicant: J & M CORPORATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Insulators and insulator parts from the facilities of Lapp Insulator Division of Interpace Corporation situated at or near Sandersville, GA to points in AR, GA, LA, MS, MO, TX, VA and OK. An

underlying ETA seeks 90 day authority. Supporting Shipper(s): Lapp Insulator Division of Interpace Corp., Sandersville, GA 31802. Send protests to: Sara K. Davis, Transportation Assistant, ICC, Room 300, 1252 West Peachtree ST., NW., Atlanta, GA 30309.

MC 115331 (Sub-485TA), filed February 8, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: Steve Vogt, 11040 Manchester Road, St. Louis, MO 63122. (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses*, and (2) *Materials, ingredients, equipment and supplies used in the manufacture, distribution and sale of products in (1), between the facilities of Ralston Purina Co. at or near Clinton and Davenport, IA, on the one hand, and on the other, points in IN, MI, OH, MO and WI, for 180 days.* Supporting Shipper(s): Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188. Send protests to: P. E. Binder, DS, ICC, Rm 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 115840 (Sub-112TA), filed February 15, 1979. Applicant: COLONIAL FAST FREIGHT LINES, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D.R. Beeler, same address as applicant. *Zinc slabs, zinc dust and zinc oxide* from the facilities of St. Joe Zinc Company, located at or near Josephstown (Potter Township/Beaver County), PA, to points in FL, TN, GA, AL, and TX, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting Shipper(s): St. Joe Zinc Company, Two Oliver Plaza, Pittsburgh, PA 15222. Send protests to: Glenda Kuss, TA, ICC, Suite A-422 U.S. Court House, 801 Broadway Nashville, TN 37203.

MC 117730 (Sub-41TA), filed February 13, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Coated Sand*, from the facilities of Faskure Coated Sand, Aurora, IL to points in and east of MT, WY, CO, and NM. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Faskure Coated Sand, Division of Aurora Ind., 1019 Jericho Rd., Aurora, IL 60506. Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 117730 (Sub-42TA), filed February 13, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Attorney at Law, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Chemicals*, (except commodities in bulk in tank vehicles) in vehicles equipped with mechanical refrigeration, from the facilities of Rohm & Haas Company, Inc. at Bristol, Croydon, and Philadelphia, PA to St. Louis, MO, Detroit, MI, Racine and Milwaukee, WI, and Chicago, IL, to points in the commercial zones of each named destination point. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Rohm & Haas Company, Inc., Independence Mall West, Philadelphia, PA 19105. Send protests to: Send protests to: Annie Booker, Transportation Assistant, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 118831 (Sub-174TA), filed February 23, 1979. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller, III, same address as applicant. *Dry polyester resin, in bulk*, from Fayetteville, NC to Painesville, OH, for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting Shipper(s): Rohm and Haas Co., Carodel Plant, P.O. Box 630, Fayetteville, NC 28302. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, P.O. Box 26896, Raleigh, NC 27611.

MC 118831 (Sub-175TA), filed March 2, 1979. Applicant: CENTRAL TRANSPORT, INCORPORATED, P.O. Box 7007, High Point, NC 27264. Representative: Ben H. Keller, III, same address as applicant. *Liquid synthetic plastic* from Atlanta, GA to Greenwood, SC for 180 days. An underlying ETA seeking 90 days authority has been filed. Supporting Shipper(s): National Starch and Chemical Corporation, Box 6500, Bridgewater, NJ 08807. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, P.O. Box 26896, Raleigh, NC 27611.

MC 119741 (Sub-144TA), filed February 15, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Hog and pig skins and trimmings as described in Section A of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766*, from the facilities of Geo.

A. Hormel & Co. at Fremont, NE, and Fort Dodge and Ottumwa, IA to points in IN, IL, KS, MI, MN, MO, ND, OH, SD, NE, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Geo. A. Hormel & Company, P.O. Box 800, Austin, MN 55912. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 120910 (Sub-20TA), filed February 23, 1979. Applicant: SERVICE EXPRESS, INC., PO Box 1009, Tuscaloosa, AL 35401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., PO Box 1240, Arlington, VA 22210. *Paper and paper products* (except in bulk), from the facilities of Union Camp Corporation at or near Prattville, AL, to points in MS, GA, AL, TN, SC, NC, VA, FL, KY and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 120910 (Sub-21TA), filed February 23, 1979. Applicant: SERVICE EXPRESS, INC., PO Box 1009, Tuscaloosa, AL 35403. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *Ground coal*, in bulk, from Holt, AL to Chattanooga, TN, for 180 days. Supporting Shipper(s): Empire Coke Company, PO Box 190, Holt Branch, Tuscaloosa, AL 35404. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 121751 (Sub-3TA), filed February 5, 1979. Applicant: ABLE TRANSPORT, INC., 1940 West Pacific Coast Highway, Long Beach, CA 90810. Representative: A Michael Bernstein, 1441 E. Thomas Road, Phoenix, AZ 85014. *Doors, door sections, parts and accessories*, from the plantsites of Overhead Door Company in Dallas and Fort Worth, TX to NM, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Overhead Door Company, 3800 Academy Parkway, South NE, Albuquerque, NM 87109. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 124141 (Sub-13TA), filed February 5, 1979. Applicant: JULIAN MARTIN, INC., P. O. Box 3348, Highway 25 S., Batesville, AR 72501. Representative: Theodore Polydoroff, 1307 Dolly

Madison Blvd, Suite 301, McLean VA 22101. Such commodities as are dealt in by retail and department stores, from OH, NY, NJ, PA, NC, SC, GA, MA, CT, AL, TN and IL, to the facilities of Wal-Mart Stores, Inc. at Bentonville, AR and Searcy, AR, for 180 days as a common carrier over irregular routes. Supporting Shipper(s): Wal-Mart Stores, Inc., P. O. Box 116, Bentonville, AR 72712. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 124221 (Sub-67TA), filed February 20, 1979. Applicant: HOWARD BAER, P.O. Box 27, Morton, IL 61550. Representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, Indiana 46204. *Peanut Products*, from Albany, Georgia to Los Angeles, California. An underlying ETA seeks 90 days authority. Supporting Shipper(s): The Kroger Co., 1014 Vine Street, Cincinnati, Ohio 45201. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, Illinois 62701.

MC 124251 (Sub-57TA), filed February 12, 1979. Applicant: JACK JORDAN, INC., 3681 South Dixie Road, P.O. Box 689, Dalton, Georgia 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, Georgia 30345. *Adhesives and adhesive compounds*, in bulk, from the facilities of Swift Adhesives and Coating Products of Unitech Chemical, Inc., Atlanta, GA to Cornelius, NC. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Swift Adhesives and Coating Products of Unitech Chemical, Inc., Atlanta, Georgia 30318. Send protests to: Sara K. Davis, Transportation Assistant, ICC, Room 300, 1252 West Peachtree Street, N.W., Atlanta, Georgia 30309.

MC 125470 (Sub-43TA), filed February 20, 1979. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, NE 68701. Representative: A. J. Swanson, Peterson, Bowman, Swanson & Johanss, P.O. Box 81849, Lincoln, NE 68501. *Salt and salt products*, from Hutchinson, KS to points in ND, SD, and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Guy Mallonee, Carey Salt, Division of Interpace Corporation, 1800 Carey Blvd, Hutchinson, KS 67501. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 127651 (Sub-4TA), filed February 27, 1979. Applicant: EVERETT G. ROEHL, INC., East 29 St., P.O. Box 7,

Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent St., Madison, WI 53705. *Iron and steel articles*, from the facilities of Inland Steel Co. at East Chicago, IN to points in MN & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Inland Steel Co., 30 W. Monroe St., Chicago, IL 60603. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wisconsin 53202.

MC 128030 (Sub-120TA), filed February 22, 1979. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 177, Urbana, IL 61801. Representative: James R. Madler, Attorney, 120 W. Madison St., Chicago, IL 60602. *Canned and preserved foodstuffs*, from the facilities of Heinz U.S.A., Div. of H. J. Heinz, at or near Iowa City, IA and in each case restricted to traffic originating at the named facilities and destined to the named states to points in Missouri, and points in Illinois on and south of Interstate 70. Supporting Shipper(s): Heinz U.S.A., Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Charles D. Little, District Supervisor, Interstate Commerce Commission, 414 Leland Office Building, 527 East Capitol Avenue, Springfield, IL 62701.

MC 129701 (Sub-11TA), filed February 5, 1979. Applicant: JASPER FURNITURE FORWARDING, INC., P.O. Box 364, Westfield, IN 46074. Representative: Orville G. Lynch (same as applicant). *Contract carrier: irregular routes: New Furniture, crated*, from Chicago, IL to points in IL, IN, IW, KA, MI, MN, MO, NB, ND, OH, SD, and WI, for 180 days. SUPPORTING SHIPPER: S.K. Products Corporation, 5000 W. 123rd Street, Chicago (Alsip), IL 60658. SEND PROTESTS TO: Beverly J. Williams, Transportation Assistant, ICC, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

MC 133591 (Sub-60TA), filed February 14, 1979. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mt. Vernon, MO 65712. Representative: Harry Ross, 58 South Main St., Winchester, KY 40391. *Candy, confectionery and advertising and promotional materials when moving with candy and/or confectionery*, from Centralia, IL to points in NM, CO, WY, MN, ID, UT, AZ, NV, OR, WA, & CA for 180 days. Supporting Shipper(s): Hollywood Brands, Inc., 836 S. Chestnut, Centralia,

IL 62801. Send protests to: DS John V. Barry, ICC, 600 Fed Bldg, 911 Walnut, Kansas City, MO 64106.

MC 133660 (Sub-2TA), filed January 17, 1979. Applicant: PAUL JONES, INC., 941 Fairmount Avenue, Elizabeth, NJ 07201. Representative: Richard B. Austin, 5255 N.W. 87th Avenue, Suite 214, Miami, FL 33178. *Contract carrier, irregular routes for 180 days. Commodities as are sold or used by operators of restaurant chains (except commodities in bulk).* (1) Between Burger King facilities (2) Between Burger King facilities and Burger King supplies (3) Between all points in the United States, excluding AK and HI. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Burger King Corporation, P.O. BOX 520843, Miami, FL 33152. Send protests to: Robert E. Johnston, District Supervisor, INTERSTATE COMMERCE COMMISSION, 9 Clinton Street, Newark, New Jersey 07102.

MC 134011 (Sub-1TA), filed February 16, 1979. Applicant: LEON H. PENN d.b.a. PENN TRUCKING COMPANY, Route 3, Box 112, Cordele, GA 31415. Representative: C. E. Walker, P.O. Box 1085, No. 8 Eleventh Street, Columbus, GA 31902. *Dry fertilizer and fertilizer materials, in bags, minimum volume truckload 40,000 pounds from Crisp County, GA, to all points in FL.* An underlying ETA seeks 90 days authority. Supporting Shipper(s): Gold Kist, Inc., 244 Perimeter Center Parkway, Atlanta, GA 30301. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 134681 (Sub-7TA), filed February 27, 1979. Applicant: VULCRAFT CARRIER CORPORATION, 4425 Randolph Rd., Charlotte, NC 28211. Representative: Scott E. Daniel, P.O. Box 82028, Lincoln, NE 68501. *Contract carrier-irregular routes; Iron and steel articles* from the facilities of Nucor Corporation, Vulcraft Division, at or near Norfolk, NE to points in AK, AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TX, UT, WA, WI, and WY, for 180 days. RESTRICTION: Restricted to a transportation service to be performed under a continuing contract or contracts with Nucor Corporation. Supporting Shipper(s): Nucor Corporation, Vulcraft Division, P.O. Box 59, Norfolk, NE 68701. Send protests to: Terrell Price, District Supervisor, 800 Briar Creek Rd, Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 134921 (Sub-3TA), filed February 15, 1979. Applicant: MID-AMERICA

TRANSPORT, INC., P.O. Drawer 370, Madisonville, KY 42431. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Authority sought to operate as a Contract Carrier, in interstate or foreign commerce, by motor vehicle, over irregular routes, transporting (1) Glass bottles from Streater and Alton, IL, (2) Plastic bottles, from Chicago, IL, and Kentwood, MI, and (3) Cardboard trays, from Evansville, IN and Murfreesboro, TN, to Madisonville, KY, under a continuing contract with Mid-American Canning Corporation, Madisonville, KY. An underlying ETA seeks 90 days authority. Supporting Shipper(s): William R. Laffoon, General Manager, Mid-America Canning Corp., P.O. Box 370, Madisonville, KY 42431. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, KY 40202.

MC 135070 (Sub-29TA), filed February 8, 1979. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, 521 South 14th Street, Lincoln, NE 68501. *Malt beverages and related advertising materials, empty used beverage containers for recycling and materials and supplies used in and dealt with by breweries*, from Jefferson County, CO to points in IA, KS, MO, NE, NM, OK, and TX, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting Shipper(s): Adolph Coors Company, Golden, CO 80401. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 135070 (Sub-30TA), filed February 8, 1979. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, 521 South 14th Street, Lincoln, NE 68501. *Inedible meats and inedible meat products and by-products*, from the facilities of Consolidated Pet Foods, Inc. at or near Amarillo, TX to the facilities of Kal Kan Foods, Inc. at or near Vernon, CA, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting Shipper(s): Kal Kan Foods, Inc., 3386 E. 44th Street, Vernon, CA 90058. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 135070 (Sub-32TA), filed February 27, 1979. Applicant: JAY LINES, INC., 720 N. Grand, Amarillo, TX 79120.

Representative: Gailyn Larsen, 521 South 14th Street, Lincoln, NE 68501. *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of Banquet Foods Corp. at or near Milan, Carrollton, Macon, Marshall, and Moberly, MO and from Kansas City, MO and points in its commercial zone to points in AR, LA, OK, TX, and NM, for 180 days. An underlying ETA seeking up to 90 days authority was filed. Supporting Shipper(s): Banquet Foods Corporation, 100 N. Broadway, St. Louis, MO 63102. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 135611 (Sub-8TA), filed February 21, 1979. Applicant: WALKER & WHITTED TRANSPORTATION CO., INC., 320 North Eighth Street, Brawley, CA 92227. Representative: Thomas M. Loughran, Loughran & Hegarty, 100 Bush Street, 21st Floor, San Francisco, CA 94104. *Petroleum products, in bulk, in tank vehicles*, from points in Los Angeles and Orange Counties, CA to points in Yuma County, AZ, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Union Oil Company, Union Oil Center, Los Angeles, CA 90017; ARCO Petroleum Products Company, 515 Flower Street, Los Angeles, California 90071; Gulf Oil Company, 13415 Carmenita Road, Santa Fe Springs, CA 90670. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 136711 (Sub-35TA), filed February 13, 1979. Applicant: McCORKLE TRUCK LINE, INC., P.O. Box 94968, Oklahoma City, OK 73143. Representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. *Scrap metal (low manganese slitter)*, in bulk, from the facilities of Bethlehem Steel Corporation at Burns Harbor, IN, to the facilities of Pryor Foundry, Inc., at Pryor, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Pryor Foundry, Inc., P.O. Box 549, Pryor, OK 74361. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 136711 (Sub-36TA), filed February 26, 1979. Applicant: McCORKLE TRUCK LINE, INC., P.O. Box 94968, Oklahoma City, OK 73143. Representative: G.

Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. (1) *Limestone* (in bulk), from the facilities of Delta Mining Corporation, at Mill Creek, OK, to the facilities of Vitaway, at Pulaski, TN; (2) *Soda ash* (in bulk), from Green River, Alchem, Stauffer, and T. G. Soda, WY, to Tulsa, OK; (3) *Soda ash* (in bulk), from Green River, WY, to the facilities of Anchor-Hocking Corporation, at Gurnee, IL, Houston, TX, Winchester, IN, and Lancaster, OH, for 180 days. Supporting Shipper(s): Delta Mining Corporation, 1535 W. Mockingbird, Dallas, TX 75235; Ford Motor Company, Tulsa Glass Plant, 5555 S. 129th East Ave., Tulsa, OK 74134; Anchor-Hocking Corporation, 109 North Broad Street, Lancaster, OH 43130. Send protests to: Connie Stanley, Transportation Assistant, Interstate Commerce Commission, Room 240, Old Post Office & Court House Bldg., 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138000 (Sub-44TA), filed February 14, 1979. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Edward N. Button, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Such merchandise as are dealt in by retail chain department stores* from the facilities of K-Mart, Inc. located in Chicago, IL to Detroit, MI and its commercial zone, for 180 days. Supporting Shipper(s): K-Mart Corp., 3100 W. Big Beaver Rd., Troy, MI 48084. Send protests to: T. M. Esposito, Trans. Asst., 600 Arch St., Room 3238, Philadelphia, PA 19106.

MC 139821 (Sub-4TA), filed February 16, 1979. Applicant: HAUGEN TRANSIT, INC., R.R. 2A, Madelia, MN 56062. Representative: William L. Libby, 8214 West 34½ Street, St. Louis Park, MN 55426. *Contract carrier*: irregular routes: *Soy flour and soy flour products*, from Mankato, MO to points in IA south of Interstate Highway 80, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Honeyamead Products Company, P.O. Box 29, Mankato, MN 56001. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 140030 (Sub-7TA), filed February 28, 1979. Applicant: PLASTIC EXPRESS, 2999 La Jolla Street, Anaheim, CA 92806. Representative: Richard C. Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. *Contract*: irregular: *Lubricating oil, oil products, and lubricating filters (other than bulk)*, (1) from points in Los Angeles County, CA, to points in OR, and (2) from Portland,

OR, to points in WA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Pennzoil Company, Branded Product Division, 1730 West Olympic Blvd., Suite 102, Los Angeles, CA 90015. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 140241 (Sub-40TA), filed February 9, 1979. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison, Topeka, KS 66603. *Iron and Steel Articles* from Chicago, IL and its commercial zone to points in Harvey County, KS; 180 days, common carrier, irregular routes; underlying 90 days ETA granted 2-7-79; SUPPORTING SHIPPER: Hesston Corporation, Hesston, KS; SEND PROTESTS TO: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. Supporting Shipper(s): Hesston Corporation, Hesston, KS 67062. Send protests to: M. E. Taylor, Dist. Supv., Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 140241 (Sub-42TA), filed February 27, 1979. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: Larry E. Gregg, 641 Harrison, Topeka, KS 66603. *Salt and salt products* from points in Reno County, KS to points in AZ, AR, CO, ID, IL, IN, IA, KY, LA, MN, MS, MO, MT, NE, NM, OH, OK, TN, TX, UT, WI & WY.; 180 days, common, irregular; with underlying 90 days ETA filed simultaneously; SUPPORTING SHIPPER: Carey Salt, Div. of Interpace Corp., Hutchinson, KS; SEND PROTESTS TO: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202. Supporting Shipper(s): Carey Salt, Division of Interpace Corporation, 1800 Carey Blvd., Hutchinson, KS 67501. Send protests to: M. E. Taylor, Dis. Supv., Interstate Commerce Commission, 101 Litwin Bldg., Wichita, KS 67202.

MC 140511 (Sub-8TA), filed February 9, 1979. Applicant: AUTOLOG CORPORATION, 319 W. 101 St., New York, NY 10025. Representative: Larsh B. Mewhinney, Esq., Moore Berson Lifflander & Mewhinney, 555 Madison Avenue, New York, NY 10022. *New motor vehicles, in secondary movements, in truckaway service*, between points in FL, on the one hand, and, on the other, points in CT, DE, IL, MA, MD, MI, NJ, NY, OH, PA, RI, WI, and VA. An underlying ETA seeks 90 days authority. Supporting Shipper(s):

There are ten (10) shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 141781 (Sub-16TA), filed February 20, 1979. Applicant: LARSON TRANSFER & STORAGE CO., INC., 10700 Lyndale Avenue South, Minneapolis, MN 55420. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55402. *Chain saws, snow throwers and garden, lawn, surf and golf course care equipment* from the facilities of Toro Company at or near Windom, MN and Tomah, WI to points in AL, AR, FL, GA, KY (except Louisville), LA, MS, NC, SC, and TN, restricted to traffic originating at the named origins and destined to the named destinations, for 180 days. SUPPORTING SHIPPER(S): The Toro Company, 8111 Lyndale Avenue South, Minneapolis, MN 55420. Send protests to: Delores A. Poe, TA, ICC, 414 Federal Building & U. S. Court House, 110 South 4th Street, Minneapolis, MN 55401. An underlying ETA seeks 90 days authority.

MC 141921 (Sub-42TA), filed February 12, 1979. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). *Boxed beef*, from Dakota City, NE, Emporia, KS, and Amarillo, TX, to St. Johnsbury, VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): French and Bean Company, Industrial Park, St. Johnsbury, VT 05819. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 141921 (Sub-43TA), filed February 14, 1979. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). (1) *Malt beverages and related advertising material*, from points in Jefferson County, CO, to points in AZ; and (2) *empty containers for recycling and supplies used in the manufacturing and distribution of malt beverages and related advertising material*, from points in AZ, to points in Jefferson County, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Adolph Coors Company, Golden, CO 80401. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 141921 (Sub-46TA), filed February 21, 1979. Applicant: SAV-ON

TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). *Meat, meat products, meat by-products and articles distributed by meat packing houses, as described in Sections A & C of appendix I to report in descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides, skins, and commodities in bulk)*, from Fremont, NE to Baltimore, MD and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Gurrentz International Co., 2020 Ardmore Blvd., Pittsburgh PA 13221. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 141921 (Sub-47TA), filed February 21, 1979. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Rd., Manchester, NH 03108. Representative: John A. Sykas (same address as applicant). *Meat, meat products, meat by-products and articles distributed by meat packing houses, as described in Sections A & C of appendix I to report in descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides, skins, and commodities in bulk)*, from the facilities of Union Packing Company, at Omaha, NE to Portland, ME and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Union Packing Company, 4501 So 36th St, Omaha, NE 68107. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 142831 (Sub-12TA), filed February 20, 1979. Applicant: HAMRIC TRANSPORTATION, INC., 3318 E. Jefferson, Grand Prairie, TX 75051. Representative: Lawrence A. Winkle, Winkle and Wells, Suite 1125 Exchange Park, P.O. Box 45538, Dallas, TX 75245. *Electrical transmission towers, disassembled*, from facilities of Anchor Metals at Hurst, TX to points in NM and AZ for 180 days. Underlying ETA filed. Supporting Shipper(s): Anchor Metals, P.O. Box 157, Hurst, TX 76053. Send protests to: Opal M. Jones, Trans. Asst., Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, TX 75242.

MC 142941 (Sub-38TA), filed February 14, 1979. Applicant: SCARBOROUGH TRUCK LINES, 1313 North 25th Avenue, Phoenix, Arizona 85009. Representative: Doug W. Sinclair (same as applicant). *Sauces*, from Merced, CA to all points in the states of CO, TX, NM, UT, ID, MT, KY, AZ, NV, OR, WA, NY, for 180 days. An underlying ETA seeks 90 days

authority. Supporting Shipper(s): Ragu Foods Inc., 33 Benedict Place, Greenwich, Connecticut 06830. Send protests to: Thomas Klobas—Acting District Supervisor, 2020 Federal Building, 230 North First Avenue, Phoenix, Arizona 85025.

MC 142941 (Sub-39TA), filed February 14, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 North 25th Avenue, Phoenix, Arizona 85009. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, Illinois 60603. *Welding equipment, materials and supplies*, from the facilities of Miller Electric Manufacturing Co. at or near Appleton, WI to points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), for 180 days. An underlying ETA seeks 90 days. Supporting Shipper(s): Miller Electric Manufacturing Company, 718 S. Bounds St., Appleton, Wisconsin 54912. Send protests to: Thomas Klobas—Acting District Supervisor, 2020 Federal Building, 230 North First Avenue, Phoenix, Arizona 85025.

MC 142941 (Sub-40TA), filed February 14, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 North 25th Avenue, Phoenix, Arizona 85009. Representative: Doug W. Sinclair (same as Applicant). (1) *Malt beverages and related advertising materials*, (2) *Empty used beverage containers for recycling, and materials and supplies used in and dealt with by breweries*, from Jefferson County, Colorado to AZ, NM, NV, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Adolph Coors Company, Golden, Colorado 80401. Send protests to: Thomas Klobas—Acting District Supervisor, 2020 Federal Building, 230 North First Avenue, Phoenix, Arizona 85025.

MC 142980 (Sub-3TA), filed February 22, 1979. Applicant: PROCESSING TRANSPORTATION, INC., P.O. Box 68, Conley, GA 30027. Representative: Mark Ellison, 1200 Gas Light Tower, 235 Peachtree Street, N.E., Atlanta, GA 30303. *Inedible foodstuffs (in carrier provided tote bins) from points in LA and VA to the facilities of Atlanta Processing B. Inc., Atlanta, GA.* An underlying ETA seeks 90 days authority. Supporting Shipper(s): Atlanta Processing B. Inc., Conley, GA 30027. Send protests to: Sara K. Davis, Transportation Assistant ICC, Room 300, 1252 West Peachtree St., NW., Atlanta, GA 30309.

MC 143331 (Sub-5TA), filed February 7, 1979. Applicant: FREIGHT TRAIN TRUCKING, INC., 4906 E. Compton

Blvd., P.O. Box 817, Paramount, CA 90723. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract: irregular: Dried noodles, from Gardena, CA to Oklahoma City, OK and San Antonio, TX, under a continuing contract(s) with Nissin Foods (USA) Co., Inc., for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): Nissin Foods (USA) Co., Inc., 2001 W. Rosecrans Avenue, Gardena, CA 90249. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.*

MC 143471 (Sub-11TA), filed February 8, 1979. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 301 Mt. Rushmore Road, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. *Contract carrier: irregular routes: Lumber from Grangeville, ID and commercial zone to points in IL, IA and WI, for the account of Wickes Forest Industries for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wickes Forest Industries, P.O. Box 153, Grangeville, ID 83530. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.*

MC 143570 (Sub-9TA), filed February 23, 1979. Applicant: D & G TRUCKING, INC., 4420 E. Overland Road, Meridian, ID 83642. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Feed, feed ingredients and feed supplements (except liquid products in bulk in tank type vehicles), from the facilities of CUI International at or near Boise, ID to Flagstaff, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): CUI International, P.O. Box 5485, Boise, ID 83705. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83706.*

MC 143610 (Sub-13TA), filed February 23, 1979. Applicant: PAUL YATES, INC., 6601 West Orangewood, Glendale, AZ 85301. Representative: Charles E. Creager, P.O. Box 1417, 1329 Pennsylvania Ave., Hagerstown, MD 21740. *Contract: Irregular: (1) Foods, foodstuffs, food treating compounds, chemicals, preservatives and additives (except in bulk); (2) advertising paraphernalia and materials, equipment and supplies used in the manufacture, sale and distribution of spices, extracts, convenience foods, snack foods, confectioneries, food dressings and foodstuffs (commodities, for*

transportation of which are exempt from regulation under provisions of section 203B of the Interstate Commerce Act) in mixed loads with the commodities of No. 1 above), between points in the United States (except Alaska and Hawaii), for 180 days, restricted to traffic moving from, to or between the manufacturing facilities, plants, warehouses, distribution centers, processing and/or manufacturing contractors and shipping and receiving facilities of, or used by, McCormick and Company, Inc., its divisions and subsidiary, corporations, and limited to a service performed under a continuing contract or contracts with McCormick and Company, Inc., Baltimore, Maryland, an underlying ETA seeks up to 90 days operating authority. Supporting Shipper(s): McCormick and Co., Inc., 414 Light Street, Baltimore, MD 21202. Send protests to: Thomas Klobas, Acting District Supervisor, Interstate Commerce Commission, 2020 Federal Bldg., 230 N. First Avenue, Phoenix, AZ 85025.

MC 143621 (Sub-9TA), filed February 16, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Ave., North, Nashville, TN 37219. Representative: Sidney T. Stanley (same address as applicant). *Lumber from Holder & Northern Lumber Company facilities at Nashville, TN to New Orleans, LA, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting Shipper(s): Holder & Northern Lumber Company, 5705 New York Ave., Nashville, TN 37209. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, Nashville, TN 37203.*

MC 143651 (Sub-8TA), filed February 27, 1979. Applicant: BLACKHAWK EXPRESS, INC., Lake View, IA 51450. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Meats, meat products, meat by-products and articles distributed by meat packinghouses (except hides and commodities in bulk) from the facilities of Dubuque Packing Co. at LeMars, IA to points in the United States in and east of MN, IA, MO, AR, and LA, for 180 days. Restricted to traffic originating at the facilities of Dubuque Packing Co., at LeMars, IA. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Richard Ernst, Dubuque Packing Co., P.O. Box 340, LeMars, IA 51031. Send protests to: Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.*

MC 143720 (Sub-3TA), filed February 7, 1979. Applicant: AIRFREIGHT SERVICES, INC., 3 Choice Road, Windsor, Locks, Connecticut 06096.

Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, Connecticut 06117. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between all points in CT, except those in Fairfield County, CT, and points in Hampden County, MA, on the one hand, and, on the other, JFK International Airport and LaGuardia Field, New York, NY, restricted to shipments having a prior or subsequent movement by air, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are 13 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: J. D. PERRY, JR., DS, ICC, 135 High Street, Hartford, CT 06103.*

MC 144140 (Sub-24TA), filed February 23, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC. Highway 44 West, P.O. Box 374, Eustis, FL 32726. Representative: John L. Dickerson (address same as applicant). *Bananas, from Baltimore, MD, New York City, NY and Philadelphia, PA to Pittsburgh, PA, Cincinnati, Cleveland, Columbus, and Youngstown, OH, Detroit, MI. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Castle & Cook Foods, Inc., 10741 Little Patuxent Parkway, Columbia, MD 21044. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.*

MC 144631 (Sub-1TA), filed February 16, 1979. Applicant: HVH TRANSPORTATION, INC., 3110 South Wadsworth Boulevard, Denver, CO 80227. Representative: Richard P. Kissinger, 50 South Steele, Suite 330, Denver, CO 80209. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment), between Denver and Colorado Springs, CO, serving no intermediate points: from Denver over Interstate Highway 25 to Colorado Springs, and return over the same route, for 180 days. An underlying ETA seeks authority for 90 days. Applicant seeks to interline with another carrier at Denver, CO. Supporting Shipper(s): HVH Transportation, Inc., 3110 South Wadsworth Boulevard, Denver, CO 80227. Send protests to: District Supervisor Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.*

MC 144790 (Sub-3TA), filed February 22, 1979. Applicant: HOWARD HERLEE LISK, D./B./A. HOWARD LISK, Rt. 1, Box 166, Wadesboro, NC 28170. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Sand, in bulk*, from points in Richmond County, NC, to points in AL, FL, GA, KY, LA, MD, MS, OH, PA, SC, TN, VA, WV and the District of Columbia, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Carolina Silica, Inc., P.O. Box 26, Marston, NC 28363. Send protests to: District Supervisor Terrell Price, 800 Briar Creek RD-RMCC516, Mart Office Building, Charlotte, NC 28205.

MC 144851 (Sub-1TA), filed February 13, 1979. Applicant: JOHN A. CLARK, R. D. #2, Berwick, PA 18603. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Confectionery and cough drops*, from the facilities of Luden's Inc., Reading, PA, to points in AR, CO, IA, KS, LA, MO and NB, for 150 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER: Luden's Inc., 200 N. Eighth St., Reading, PA 19601. SEND PROTESTS TO: P. J. Kenworthy, DS, ICC, 314 US Post Office Bldg., Scranton, PA 18503. Supporting Shipper(s): Luden's Inc., 200 N. Eighth St., Reading, PA 19601. Send protests to: P. J. Kenworthy, DS, ICC, 314 US Post Office Bldg., Scranton, PA 18503.

MC 145231 (Sub-2TA), filed February 20, 1979. Applicant: KROY TRANSPORTATION CO., P.O. Box 309, York, NE, 68467. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE, 68501. (1) *Pipe, pipe fittings, and irrigation equipment*, from York, NE and Garden City, KS and points in their respective commercial zones, to points in the United States (except AK and HI); and (2) *Materials, equipment and supplies used in the manufacture and distribution of the commodities named in (1) above*, from points in the United States (except AK and HI) to York, NE and Garden City, KS and points in their respective commercial zones. An underlying ETA seeks 90 days authority. RESTRICTION: Restricted against the transportation of commodities in bulk, in tank vehicles, and further restricted to a transportation service to be performed under a continuing contract(s) with Kroy Metal Products Co. and Peerless Plastics, Inc., P.O. Box 309, York, NE, 68467. Supporting Shipper(s): Kroy Metal Products Co., and Peerless Plastics, Inc., P.O. Box 309, York, NE, 68467. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building & Court House, Lincoln, NE., 68508.

MC 145441 (Sub-22TA), filed February 23, 1969. Applicant: A. C. B. TRUCKING INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). *Foodstuffs, and rubber and plastic articles*, from Columbus, OH to points in AZ, CA, OR, WA, UT and MT, for 180 days, as a common carrier over irregular routes. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ross Laboratories, 625 Cleveland Ave., Columbus, OH 43216. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

MC 145481 (Sub-3TA), filed February 7, 1979. Applicant: COYOTE TRUCK LINE, INC., P.O. Box 756, Thomasville, NC 27360. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. *Drugs, medicines, cosmetics, plastic boxes, plastic articles, weed killing compounds, and animal and poultry feed supplements; and materials, supplies, and equipment used in the manufacture, production, and distribution of the commodities named above*, (1) between the facilities utilized by Eli Lilly and Company at or near Indianapolis, Lafayette and Clinton, IN on the one hand, and, on the other, points in CA, ID and AZ; (2) between the facilities utilized by Eli Lilly and Company at or near Roanoke, VA and West Helena, AR on the one hand, and, on the other, points in CA and IN, for 180 days. RESTRICTION: Restricted against the transportation of commodities in bulk. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Eli Lilly and Company, 1555 South Kentucky Ave., Indianapolis, IN 46206. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 145481 (Sub-4TA), filed February 23, 1979. Applicant: COYOTE TRUCK LINE, INC., P.O. Box 756, Thomasville, NC 27360. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. *Playground and park equipment, mall furniture, park buildings and shelters, and athletic and recreation apparatus and equipment*, from the facilities of Game Time, Inc. at or near Litchfield, MI to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Game Time, Inc., 900 Anderson Rd., Litchfield, MI 49252. Send protests to: District Supervisor Terrell Price, 800 Briar Creek Rd., Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 145560 (Sub-4TA), filed February 21, 1979. Applicant: NORTH ALABAMA TRANSPORTATION, INC., P.O. Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Contract, irregular: *Carpet backing, bagging, synthetic yarn, and other industrial fabrics*, from the facilities of Amoco Fabric Company at or near Bainbridge, GA, to points in CA; and from the facilities of Amoco Fabrics Company at or near Nashville, GA, to points in WA, OR, and ID, restricted to the transportation of shipments under a continuing contract or contracts with Amoco Fabrics Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Amoco Fabrics Company, P.O. Box 836, Hazelhurst, GA 31539. Send protests to: Mabel E. Holston, Transportation Asst., Bureau of Operation, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 145560 (Sub-5TA), filed February 23, 1979. Applicant: NORTH ALABAMA TRANSPORTATION, P.O. Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Carpet and carpeting*, from Ringgold, Dalton, Chatsworth, Ellijay, Calhoun, Rome, Columbus and Sugar Valley, GA, and Chattanooga, TN, to points in CA, NV and OR, restricted to the transportation of shipments moving under a continuing contract or contracts with Apollo Sales, Inc. for 180 days. Supporting Shipper(s): Apollo Sales, Inc., 1850 Campbell Street, Oakland, CA 94607. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC Room 1616, 2121 Building, Birmingham, AL 35203.

MC 145850 (Sub-3TA), filed February 23, 1979. Applicant: MALCOLM HUMPHREYS, d.b.a. HUMPHREYS TRUCKING, Route 5, Box 885, Prattville, AL 36067. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. (1) *Paper and paper products* (except in bulk), from the facilities of Union Camp Corporation at or near Prattville, AL, to points in MS, GA, TN, SC, NC, VA, FL, AL, and KY; and (2) *materials, equipment and supplies* used in the manufacture or distribution of paper and paper products (except in bulk), from points in the destination states named in (1) above, to the facilities of Union Camp Corporation at or near Prattville, AL, restricted to the transportation of shipments under a continuing contract or contracts with Union Camp Corporation, for 180 days. An underlying ETA seeks 90 days authority. Supporting

Shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operation, ICC Room 1616, 2121 Building, Birmingham, AL 35203.

MC 145930 (Sub-1TA), filed February 26, 1979. Applicant: WILLIAM E. MOROG d.b.a. JONICK & CO., 2815 East Liberty Ave., Vermillion, OH 44089. Representative: Michael M. Briley, Esq., 300 Madison Ave., 12th Fl., Toledo, OH 43604. *Soda ash, in bulk*, from Green River, WY to the facilities of Anchor-Hocking Corp. at Gurnee, IL, Winchester, IN, and Lancaster, OH, for 180 days. Common-carrier-irregular routes. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Anchor Hocking Corporation, 109 North Broad Street, Lancaster, OH 43130. Send protests to: P. J. Crawford, Transportation Consumer Specialist, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit St., Toledo, OH 43604.

MC 145950 (Sub-2TA), filed January 29, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76706. Representative: A. C. Horne, 2611 University Parks Dr., Waco, TX 76706. *Glassware*, from the facilities of Riekes Crisa Corporation, at or near, Laredo, TX to points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Riekes Crisa Corporation, P.O. Box 2489, Laredo, TX 78041. Send protests to: Robert J. Kirspe, DS, ICC Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145950 (Sub-5TA), filed February 15, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76706. Representative: J. Carroll Wood, 2611 University Parks Drive, Waco, TX 76706. *Laminated sheet plastic* from the facilities of Wilsonart, Division of Dart Industries, Inc., at or near Temple, TX to Seattle, WA; San Francisco and Los Angeles, CA; Denver, CO; Chicago, IL; Detroit and Grand Rapids, MI; Boston, MA; Salt Lake City, UT; New York, NY; Pennsauken, NJ; Atlanta, GA; Miami, FL; Kenyon, MN; Phoenix, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Wilsonart, Division of Dart Industries, Inc., 600 General Bruce Drive, Temple, TX 76501. Send protests to: Robert J. Kirspe, DS, ICC, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145950 (Sub-6TA), filed February 26, 1979. Applicant: BAYWOOD

TRANSPORT, INC., P. O. Box 2611, Waco, TX 76706. Representative: Arthur Grimes, 2611 University Parks Drive, Waco, TX 76706. *Canned and preserved foodstuffs (except commodities in bulk)*, from the facilities of Heinz USA, Div. of H. J. Heinz Co., at or near Pittsburgh, PA, to points in AR, OK, and TX, restricted to traffic originating at the named facilities and destined to the named states, for 180 days. Supporting Shipper(s): Heinz USA, Division of H. J. Heinz Company, P. O. Box 57, Pittsburgh, PA 15230. Send protests to: Martha A. Powel, Transportation Asst., Interstate Commerce Commission, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 145980 (Sub-1TA), filed January 23, 1979. Applicant H. C. COOK & BOBBY JOE COOK, a Partnership, d.b.a. COOK TRUCKING, 2200 Willow Creek Road, Casper, WY 82601. Representative: Bobby Joe Cook (Same address as applicant). (1) *Machinery, equipment and supplies* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and by products, and (2) *machinery, materials, equipment and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, between points in WY, CO, UT, NV, ID, MT, RESTRICTED against the transportation of complete oil drilling rigs, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): There are ten (10) shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Rm 105 Federal Bldg. & Crt. House, 111 South Wolcott, Casper, WY 82601.

MC 145981, filed February 28, 1979. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Avenue, South Kearny, NJ 07032. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Common, irregular. Zinc dust, and materials, equipment, and supplies used in the manufacture and sale of Zinc Dust (except commodities in bulk), from the facilities of L.D.L. Technology, Inc., located at or near Paterson, NJ to points in CA, CO, IL, LA, MI, OK, & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): L.D.L. Technology, Inc., 137 Pennsylvania Avenue, Paterson, NJ 07503. Send protests to: Robert E. Johnston, D/S,

ICC, 9 Clinton St. Room 618, Newark, NJ 07102.

MC 146131 (Sub-1TA), filed February 26, 1979. Applicant: TRANSPORT ENTERPRISES, INC., 857 E. St. Francis Road, DePere, WI 54115. Representative: Wayne Wilson, 150 E. Gilam St., Madison, WI 53703. *Paper and paper products* from DePere, WI to points in CA, OR & WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Nicolet Paper Corp., Main Ave., Green Bay, WI 54114. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, WI 53202.

MC 146261 (Sub-1TA), filed February 20, 1979. Applicant: FUN TIME TOURS, INC., 129 Sea Isle Circle, S. Daytona Beach, FL 32019. Representative: O. C. Beakes, 836 Riverside Avenue, Jacksonville, FL 32204. *Contract carrier, irregular routes: Passengers and their baggage*, between points in Volusia County, FL, on the one hand and on the other, points in the U.S. except AK and HI. Restricted to transportation performed under continuing contracts with Daytona Safari Hotel, Floridian Investments, Inc. and Voyager Motel. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Ocean Front Inc. d.b.a. Voyager Motel, 2424 N. Atlantic Avenue, Daytona Beach, FL 32018; Floridian Investors, Inc., 843 S. Atlantic Avenue, Daytona Beach, FL 32018. Daytona Safari Motel, Inc., Atlantic Avenue, Daytona Beach, FL 32018. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 146291 (Sub-1TA), filed February 15, 1979. Applicant: LARRY WILSON, dba Wilson Trucking Co., P.O. Box 581, Plainview, TX 79072. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. (1) *Farm machinery and equipment*; and (2) *equipment, materials and supplies* used in the manufacture and assembly of farm equipment and machinery, (1) from the facilities of Tye Sales Company at or near Lockney, TX to points in the U.S. (except AK and HI); and (2) from points in the U.S. (except AK and HI) to the facilities of Tye Sales Company at or near Lockney, TX, for 180 days. An underlying ETA seeks up to 90 days authority. SUPPORTING SHIPPER(S): Tye Sales Company, P.O. Box 218, Lockney, TX 79241. SEND PROTESTS TO: District Supervisor Haskell E. Ballard, Box F-13206 Federal Building,

Amarillo, TX 79101. Supporting Shipper(s): Tye Sales Company, P.O. Box 218, Lockney, TX 79241. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box F-13206, Federal Building, Amarillo, TX 79101.

MC 146320 (Sub-1TA), filed February 23, 1979. Applicant: Charles A. Stoeckler, Inc., 3 Spring Street, Wilkes-Barre, PA 18702. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Contract carrier: Irregular routes:* Printed matter, from Dallas, Pa, to Bridgeport, Derby and Norwalk, CT; East Rutherford, NJ; Effingham, Salem, Addison, Des Plaines, Chicago, Hillside and Mt. Morris, IL; Kirkwood and Warwick, NY; Baltimore, MD; Atlanta, GA; Indianapolis, IN; Racine, WI; Dresden, TN; and New York, NY, and materials, supplies and equipment used in the manufacture and distribution of printed matter on return, for 150 days. An underlying ETA seeks 90 days authority. **SUPPROTING SHIPPER:** Offset Paperback Mfrs., Inc., PO Box N, Dallas, PA 18613. **SEND PROTESTS TO:** P. J. Kenworthy, DS, ICC, 314 US Post Office Bldg., Scranton, PA 18503. Supporting Shipper(s): Offset Paperback Mfrs., Inc., P.O. Box N, Dallas, PA 18613. Send protests to: P.J. Kenworthy, DS, ICC, 314 US Post Office Bldg., Scanton, PA 18503.

MC 146370 (Sub-TA), filed February 12, 1979. Applicant: PIONEER TRUCKING COMPANY, 2121 West Euless Blvd., Euless, TX 76039. Representative: Ralph McKinstry (same address as applicant). *Pipe, pipeline materials, machinery, equipment and supplies incidental to, or used in connection with the construction, repairing, servicing, maintenance, dismantling of pipeline, including the stringing and pickup of the foregoing commodities; pipe, pipeline materials, machinery equipment and supplies incidental to, or used in the construction, repairing, servicing, maintenance of pipeline facilities, to, from, and/or between all points in the U.S. (including HI), for 180 days.* Supporting Shipper(s): There are 14 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Martha A. Powell, Transportation Assistant, Interstate Commerce Commission, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

MC 146371 (Sub-TA), filed February 6, 1979. Applicant: CARL'S WELDING, INC., 24131 State Street, San Jacinto, CA

92383. Representative: Carl M. Sare, (same address as applicant.) *General building group merchandise, brick, fabricated and nonfabricated steel products, roofing materials, cement blocks, steel, cattle stanchions and farm equipment, between points in AZ, CA, ID, MT, NV, NM, OR, TX, UT AND WA, for 180 days.* Supporting Shipper(s): Metropolitan Development Corp., 8447 Wilshire Boulevard, Suite 301, Beverly Hills, CA 90211; Dairy Construction, Inc., 1106 W. Gail Avenue, Tulare, CA. 93274; Agri-Empire, Inc., P.O. Box 398, San Jacinto, CA, Nielson Industries, Inc., Route 4, Box 439, Phoenix, AZ 85031. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

Motor Carriers of Property

MC 2890 (Sub-56TA), filed February 16, 1979. Applicant: AMERICAN BUSLINES, INC., 1501 South Central Avenue, Los Angeles, CA 90021. Representative: George W. Hanthorn, 1500 Jackson Street, Suite 422, Dallas, TX 75201. *Common: regular: Passengers and their baggage, and express, in the same vehicle with passengers, between Fort Wayne, IN and Toledo, OH: (1) From Fort Wayne over IN Hwy 37 to he IN—OH State line, thence over OH Hwy 2 to Toledo, and return over the same route, serving all intermediate points, and (2) From Fort Wayne over U.S. Hwy 24 to Toledo, and return over the same route, as an alternate route for operating convenience only, serving no intermediate points.* Applicant intends to tack the above requested authority with MC 2890 at Toledo, OH. Applicant also intends to interline with another carrier at Fort Wayne. Supporting Shipper(s): There are 14 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012.

MC 146280 (Sub-1TA), filed February 27, 1979. Applicant: LEROY STOCKTON AND THELMA I. STOCKTON TRUST, d/b/a APOLLO TRANSIT CO., 7919 Hummel Drive, Boise, ID 83701. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Passengers and baggage, (1) between points in Ada County, ID on the one hand, and, on the other, points in ID in and south of Idaho County and in and west of Lemhi, Custer, Blaine and Cassia Counties, ID, restricted to traffic having an

immediately prior or subsequent movement by air; and (2) from points in Ada County, ID to points in Wallowa County, OR; (3) between points in Ada County, ID and the Municipal Airport at or near Ontario, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Hughes Airwest, 3201 Airport Way, Boise, ID 83705; Gem State Airlines, Inc., 3201 Airport Way, Boise, ID 83705; UAL, Inc. 3201 Airport Way, Boise, ID 83705; Cascade Airways, Inc., 3201 Airport Way, Boise, ID 83705; Echo the Wilderness Co., d/b/a Echo River Trips, 6505 Telegraph Ave., Oakland, CA 94609. Send Protests to: Barney L. Harding, D/S, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706. By the Commission.

H. G. Homma, Jr.,

Secretary.

[Notice No. 42TA]

[PR Doc. 79-9759 Filed 3-30-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register

Vol. 44, NO. 64

Monday, April 2, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, April 5, 1979 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Setting of dates for future meetings. Correction and approval of minutes. Advisory opinions: AO 1978-91, AO 1979-8, AO 1979-9.

Appropriations and budget. Pending legislation. 1980 elections and related matters.

Classification actions. Routine administrative matters.

Portions closed to the public (following open session):

Audits, compliance, personnel, litigation, labor management relations.

PERSONS TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, telephone 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-630-79 Filed 3-29-79; 3:27 pm]

BILLING CODE 6715-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 4 p.m., March 29, 1979.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426. Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Briefing by Commission Staff on House Subcommittee on Energy and Power Staff proposals relating to DOE authorization bills for fiscal year 1979 and fiscal year 1980.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth F. Plumb, Secretary, telephone 202-275-8166.

[S-627-79 Filed 3-29-79; 2:20 pm]

BILLING CODE 6740-02-M

3

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 18815, March 29, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: April 4, 1979.

CHANGE IN THE MEETING: ADDITION OF THE FOLLOWING ITEM TO THE OPEN SESSION: 5. BUNKER SURCHARGES IN THE DOMESTIC OFFSHORE TRADES.

[S-633-79 Filed 3-29-79; 3:36 pm]

BILLING CODE 6730-01-M

4

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 18816, March 29, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, April 5, 1979, 10 a.m. [NM-79-13].

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: The first four items on the agenda will be open to the public; the fifth item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report*—Capsizing and sinking of the self-elevating mobile offshore drilling unit OCEAN EXPRESS near Port O'Connor, Texas, April 15, 1978.

2. *Aircraft Accident Report*—Antilles Air Boats, Inc., Grumman G21A, N7777V, St. Thomas, V.I., September 2, 1978.

3. *Recommendation to Kansas Turnpike Authority re accident in Lawrence, Kans., November 2, 1978.*

4. *Opinion and Order*—Petition of Gutshall, Dkt. SM-1894; disposition of petitioner's appeal.

CONTACT PERSON FOR MORE

INFORMATION: Sharon Flemming 202-472-6022.

[S-628-79 Filed 3-29-79; 2:44 pm]

BILLING CODE 4910-58-M

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of March 26, 1979 (changes).

PLACE: Chairman's Office, 1717 H Street NW, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Wednesday, March 28—10 a.m.

1. Preliminary information regarding incident at Three Mile Island (approximately 30 minutes—public meeting).

On March 28, 1979, the Commission voted 3-0 (Chairman Hendrie and Commissioner Ahearne not present) pursuant to 5 U.S.C. 552b(3)(1) and § 9.107(a) of the Commission's Rules that Commission business requires that the above item be held on less than one week's notice to the public. Prompt action is required to inform the Commission of the nature of the incident. The meeting was continued later.

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

[S-631-79 Filed 3-29-79; 3:27 pm]

BILLING CODE 7590-01-M

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of March 26, 1979 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Thursday, March 29—9:30 a.m.

1. Briefing on Incident at Three Mile Island (approximately 1 hour—public meeting). (The previously scheduled meeting on "Regulation of Federal Waste Activities" will be delayed until 10:30 a.m.)

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee 202-634-1410.

Walter Magee,

Office of the Secretary.

[S-632-79 Filed 3-29-79; 3:27 pm]

BILLING CODE 7590-01-M

7

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION**TIME AND DATE:** 10 a.m. on April 17, 1979.**PLACE:** U.S. Court of Customs and Patent Appeals, 717 Madison Place NW., Fourth Floor Courtroom, Washington, D.C.**STATUS:** Open meeting.

MATTERS TO BE CONSIDERED: The Commissioners will hear and consider oral argument from the parties in the matters of *Secretary of Labor v. Mission Viking, Inc., Div. of Martin Industries, Inc.*, OSHRC Docket No. 78-617; *Secretary of Labor v. Northwestern Construction, Inc.*, OSHRC Docket No. 76-5155; and *Secretary of Labor v. Puget Sound Tug & Barge*, OSHRC Docket No. 76-4905.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell, 202-634-4015.

Dated: March 28, 1979.

[S-622-79 Filed 3-29-79; 10:38 am]

BILLING CODE 7600-01-M

8

POSTAL RATE COMMISSION.**TIME AND DATE:** 8:30 a.m., Tuesday, April 3, 1979.**PLACE:** Conference Room, Room 500, 2000 L Street NW., Washington, D.C.**STATUS:** Open and closed.**MATTERS TO BE CONSIDERED:**

Open: 1. Staff Reorganization.
Closed: 2. Personnel matters.
[Closed pursuant to 5 U.S.C. § 552b(c)(2)(6).]

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone 202-254-5614.

[S-625-79 Filed 3-29-79; 12:01 pm]

BILLING CODE 7715-01-M

9

RAILROAD RETIREMENT BOARD.**TIME AND DATE:** 9:30 a.m., April 9, 1979.**PLACE:** Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Ill. 60611.**STATUS:** The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED: (1) Annual comprehensive review of federal advisory committees for calendar year 1978.

CONTACT PERSON FOR MORE INFORMATION:

R. F. Butler, Secretary of the Board,
COM NO. 312-751-4920, FTS NO. 387-4920.

[S-626-79 Filed 3-29-79; 1:25 pm]

BILLING CODE 7905-01-M

10

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of April 2, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, April 3, 1979, at 10:00 a.m. An open meeting will be held on Wednesday, April 4, 1979 at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, April 3, 1979, at 10:00 a.m., will be:

Access to investigative files by Federal, State, or Self-Regulatory Authorities.
Settlement of administrative proceedings of an enforcement nature.
Formal orders of investigation.
Amendment of formal order of investigation.
Other litigation matters.
Regulatory matter bearing enforcement implications.
Institution of injunctive action and administrative proceedings.
Freedom of Information Act appeals.
Institution of administrative proceedings of an enforcement nature.
Chapter X proceeding.

The subject matter of the open meeting schedule for Wednesday, April 4, 1979, at 10 a.m., will be:

1. The Commission will consider whether to: (1) withdraw Proposed Rule 154 under the Securities Act of 1933; (2) issue a release setting forth its views as to the factors to be considered in determining the status under the federal securities laws of certain contracts issued by insurance companies. For further information, please contact Laura A. Boughan or S. Elliott Cohan at (202) 755-0237.
2. The Commission will consider what response to make to the request of the House Committee on Banking, Finance and Urban

Affairs that it comment on H.R. 11222, 95th Cong., 2nd Sess., which is intended to preserve jobs and stabilize communities by assisting employee or employee-community groups in acquiring ownership of business concerns that would otherwise close or move away from the community. For further information, please contact Nicholas Gimbel at (202) 755-1268.

FOR FURTHER INFORMATION, CONTACT:
George Yearsich at (202) 755-1100.

March 26, 1979.

[S-624-79 Filed 3-29-79; 10:38 am]

BILLING CODE 8010-01-M

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [44 FR 17637, March 22, 1979]

STATUS: Closed meeting.**PLACE:** Room 825, 500 North Capitol Street, Washington, D.C.**DATE PREVIOUSLY ANNOUNCED:** March 20, 1979.**CHANGES IN MEETING:** Rescheduling; additional items.

The following item scheduled for consideration at a closed meeting on Tuesday, March 27, 1979, at 10 a.m. have been rescheduled for Wednesday, April 4, 1979, immediately following the 10 a.m. open meeting:

Settlement of administrative proceedings injunctive action.

The following additional items will be considered at a closed meeting scheduled for Thursday, March 29, 1979, immediately following the 10 a.m. open meeting.

Formal order of investigation.
Subpoena enforcement action.

Chairman Williams and Commissioners Loomis, Evans, Pollack and Karmel determined that Commission business required the above changes and that no earlier notice thereof was possible.

March 27, 1979.

[S-623-79 Filed 3-29-79; 10:38 am]

BILLING CODE 8010-01-M

12

TENNESSEE VALLEY AUTHORITY (Meeting No. 1215).

TIME AND DATE: 9:30 a.m. EST, Thursday, April 5, 1979.**PLACE:** Academy of Art, Overton Park, Memphis, Tennessee.**STATUS:** Open.**MATTERS FOR ACTION:**

Old Business

* 1. Proposal for enrichment services for Browns Ferry Nuclear Plant.

New Business**Personnel Actions**

*1. Change of status for Billy Joe Bond from Assistant Director of Agricultural Development to Assistant to the Manager of Agricultural and Chemical Development, Muscle Shoals, Alabama.

Consulting and Personal Service Contracts

1. Consulting contract with Dr. Carl H. Reidel, Hamden, Connecticut, for consulting and advisory services on the uses of wood biomass as an alternate energy resource, requested by the Division of Land and Forest Resources.

Purchase Awards

1. Req. No. 825357—Requirements contract for liquidtight, flexible galvanized steel conduit for Hartsville and Phipps Bend Nuclear Plants.
2. Req. No. 824081—Radiation monitoring systems (GEMS) for Hartsville and Phipps Bend Nuclear Plants.

Project Authorizations

1. No. 3168.1—200-MW atmospheric fluidized bed combustion (AFBC) demonstration plant (in collaboration with the Department of Energy and Electric Power Research Institute).
2. No. 3293.1—Solar energy research, development, and demonstration in the TVA area. Amendment to Subprogram Area 4: Commercial implementation—solar heating and cooling.
3. No. 3293.2—Solar energy research, development, and demonstration in the TVA area. Amendment to Subprogram Area 1: Solar home load research program.

Power Items

1. Amendatory agreement with Kentucky Utilities Company providing for establishment of the Phipps Bend and Pineville 500-kV interconnections.
2. Lease and amendatory agreement with the Town of McMinnville, Tennessee—TVA's East McMinnville 161-kV Substation.
3. Bill of sale and quitclaim deed to the Electric Board of Guntersville, Alabama, covering conveyance of 3.67-mile section of TVA's Albertville District-Structure 164 46-kV line.
4. TVA indemnification of reclamation bonds for uranium mining projects with TVA ownership.

Real Property Transaction

1. Grant of permanent highway easement to the State of Tennessee and a permanent railroad easement to Southern Railway for expansion of Nayland Drive, affecting about 3.58 acres of TVA land located in Knoxville, Tennessee—Tracts XTFL-114H and XTFL-115RR.
2. Filing of condemnation suits.

Unclassified

1. Supplemental agreement among TVA, Tennessee Department of Education, and local school systems in the Hartsville Nuclear Plants Project area.

2. Contract with the Tennessee Valley Center for Minority Economic Development to implement a program plan for economic development for socially and economically disadvantaged persons in the seven-state TVA region.

3. Memorandum of understanding with the Ministry of Energy and Infrastructure—National Energy Authority of the State of Israel, concerning exchange of information on matters of interest in the energy field.

4. Semiannual notice of agenda announcing that TVA does not have any significant regulations under development or review within the meaning of Executive Order No. 12044.

5. Amendment of regulations under 26a of the TVA Act governing approval of construction and regulations of structures in the Tennessee River, in order to transfer administrative delegation from Division of Property and Services to Division of Land and Forest Resources.

6. Revised budget plan for fiscal year 1979.

CONTACT PERSON FOR MORE INFORMATION:

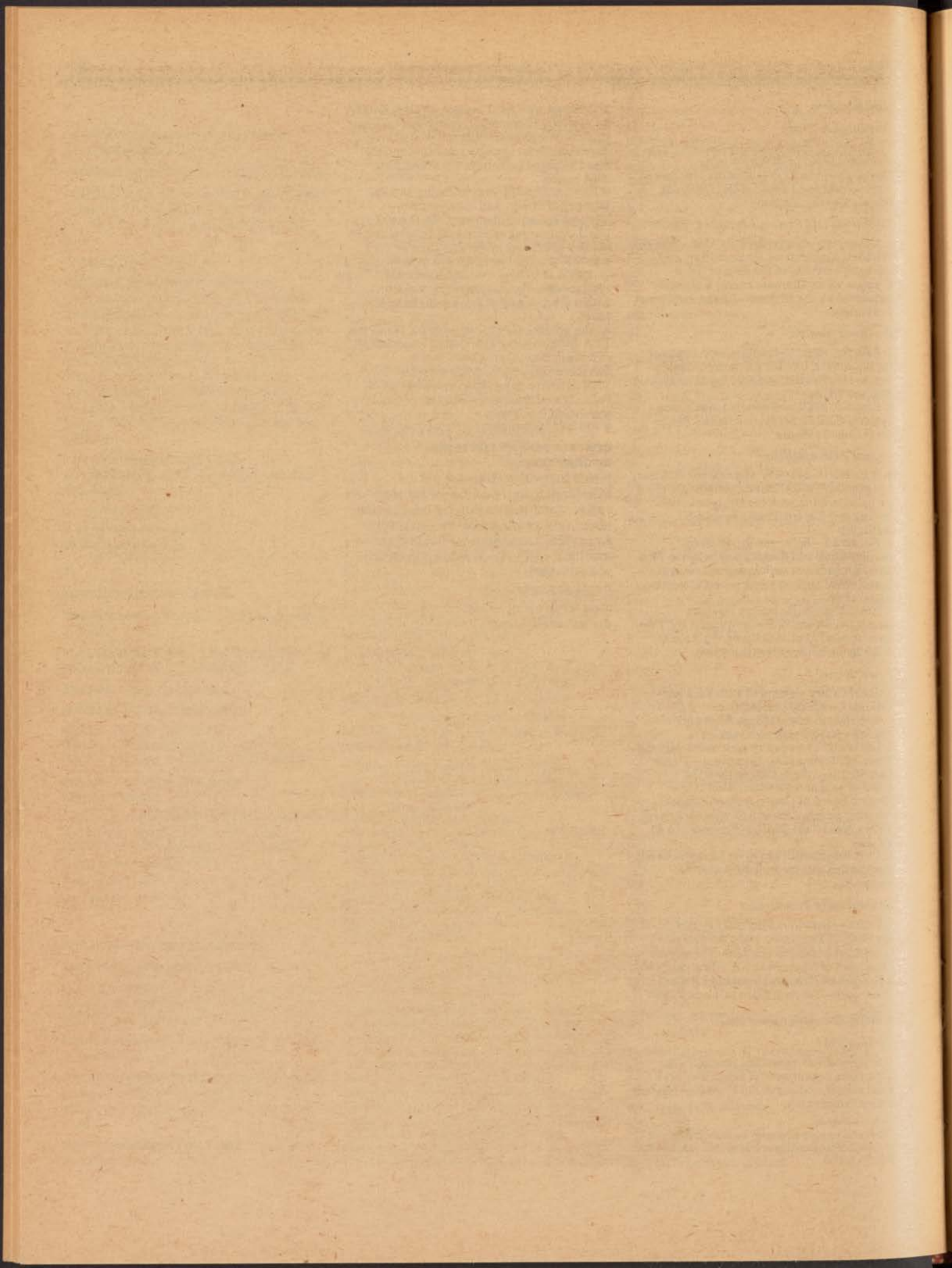
James L. Bentley, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-566-1401.

Dated: March 29, 1979.

[S-629-79 Filed 3-29-79; 3:24 pm]

BILLING CODE 8120-01-M

*These items were approved by individual Board members. This would give formal ratification to the Board's action.



Federal Register

**Monday
April 2, 1979**

**Part II
Department of the
Treasury**

Internal Revenue Service

**Improving Government Regulations;
Semiannual Agenda of Regulations**

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Chapter I]

Improving Government Regulations;
Semiannual Agenda of Regulations

AGENCY: Internal Revenue Service (IRS).

ACTION: Semiannual agenda of regulations, significant and nonsignificant, under development or review.

SUMMARY: This semiannual agenda lists the regulations determined as of March 1, 1979, that the Internal Revenue Service will be developing from March 1, 1979, through September 30, 1979. The purpose of this semiannual agenda is to give the public adequate notice of Internal Revenue Service regulatory activities.

FOR FURTHER INFORMATION CONTACT:

George H. Bradley, Chief, Technical Section, Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T. 202-566-3486, not a toll-free call.

SUPPLEMENTARY INFORMATION:

General

Executive Order 12044, "Improving Government Regulations," and Treasury Directive 50-04.F, "Criteria and procedures for the Preparation, Review, and Approval of Regulations," require that a semiannual agenda of regulations under development and review be published in the *Federal Register*. In the *Federal Register* of Wednesday, November 1, 1978, it was announced that the Internal Revenue Service will publish its semiannual agenda on March 31 and September 30 of each calendar year. The next semiannual agenda of the Internal Revenue Service will be published in the *Federal Register* of Monday, October 1, 1979, since September 30 is a Sunday.

Description

This Semiannual Agenda of

Regulations lists all projects within the Internal Revenue Service as of February 28, 1979, for the development of regulations to appear in the Code of Federal Regulations. This agenda is divided into three parts. Part I lists existing regulations under development by the Legislation and Regulations Division, Office of the Chief Counsel. Part II lists existing regulations under development by the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel. Part III lists separately projects also appearing in Part I or Part II under which existing regulations are to be reviewed pursuant to paragraph 12 of the Treasury Directive. A table defining abbreviations used throughout this agenda and a second table listing attorneys (and their telephone numbers) within the Legislation and Regulations Division and the Employee Plans and Exempt Organizations Division follow Part III. Regulations are issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 70805) in order to provide necessary guidance to Internal Revenue Service personnel who administer the law and to the public who must comply with the law. Additionally, in some instances the specific sections of the Internal Revenue Code of 1954 and the sections of the act of Congress given in this agenda with respect to projects may specifically require or authorize regulations. Each of the regulation projects within each part of this agenda is listed in order by reference to the first section of the Internal Revenue Code of 1954 to which the project is in important measure addressed. The following information is disclosed in columnar form with respect to each regulation project.

1. 1954 code section and file number.

The first column lists sections of the Internal Revenue Code of 1954 (Code) with which the subject project is directly concerned and the file number of the Internal Revenue Service under which the project is maintained.

2. Subject, drafter, and reviewer

The second column names the part of

Part I—Regulations Under Development by the Legislation and Regulations Division

Title 26 of the Code of Federal Regulations to be amended, describes briefly the subject of the regulation, names each section of each act of Congress (if any) which gives rise to the project, and names the drafting and reviewing attorneys (in that order) within the Legislation and Regulations Division or Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, who are responsible for drafting the regulation. As appropriate, the reviewing attorney within the Office of Tax Legislative Counsel or Office of International Tax Counsel, Department of the Treasury, is also named. Where a section of an act of Congress is specified in connection with a project, that project is necessary to provide regulations under the amendments to the Code made by that section of the act. In all other cases, regulations are needed under the Code sections named to provide corrective or clarifying changes in existing regulations relating to the subject matter.

3. Office in which pending and status

The third column names the office or offices within the Internal Revenue Service and/or the Department of the Treasury in which the project is presently under consideration and describes the status of the project.

4. Priority and regulatory analysis

The fourth column discloses the relative degree of importance and necessity for publication assigned to the regulation. A priority of No. 1 shows that the project is of substantial importance; a priority of No. 2 shows that the project is of medium importance; and a priority of No. 3 shows that the project is of lesser importance. If a regulatory analysis is required for a project, a note to this effect and whether the regulatory analysis has been prepared appears in this column.

By direction of the Secretary of the Treasury.
Dated: March 16, 1979.

Jerome Kurtz,
Commissioner of Internal Revenue.

1954 code section and file No.	Subject and drafter and reviewer	Office in which pending and status	Priority
§§ 3, 4, 144. LR-249-78	Inc. Tax—Part 1—Tax tables for individuals (§§ 206, 301 (b), (c), Rev. Act 1971; § 501, TRA 1976) (Coughlin/Saverude—TLC-Galm).	LR—in LR for prep of notice	2
§§ 11, 21. LR-33-76	Inc. Tax—Part 1—Corporate tax rates & surtax exemptions (Rev. Adj. Act 1975, § 4) (901(a), (e)(2), TRA 1976) (Murphy/Saverude).	LR—in LR for prep of notice	2
§ 37. LR-250-76	Inc. Tax—Part 1—Credit for the elderly (TRA 1976, §§ 503, 1901(c)(1)) (Francis/Bromell—TLC-Flynn).	TLC & T.I.—2/27/79 Draft of notice to TLC & T.I.	2

Part I—Regulations Under Development by the Legislation and Regulations Division—Continued

1954 code section and file No.	Subject and drafter and reviewer	Office in which pending and status	Priority
§§ 41, 218. LR-2045	Inc. Tax—Part 1—Incentives for contributions to candidates for public office (RA 1971, §§ 701, 702; P.L. 93-625, §§ 11, 12) (Katcher/Rood—TLC-Cohen).	Treas.—9/19/72 Notice pub. 2/22/79 T.D. to Treas. for formal approval.	2
§§ 44A, 214. LR-251-76	Inc. Tax—Part 1—Credit for child care expenses (TRA 1976, § 504) (Woo/Saverude—TLC-Schuldinger).	TLC—9/1/78 Notice pub. 12/15/78 Draft of T.D. to TLC & T.I. 1/15/79 Comments from T.I.	2
§§ 44B, 51. LR-11-79	Inc. Tax—Part 5—Temp. Regs.—Election to claim the targeted jobs credit (RA 1978, § 321) (Char-nas/Woo).	T.I.—2/23/79 Draft of T.D. to TLC. 2/26/79 Comments from TLC.	
§ 44C. LR-206-78	Temp. Inc. Tax—Part 5a—Residential energy credit (Energy Tax Act 1978, § 101) (Woo/Bromell).	TLC & T.C.—2/23/79 Draft of T.D. to TLC & T.C.	
§§ 46, 47. LR-92-73	Inc. Tax—Part 1—Tax treatment of mass assets for investment credit purposes (Mull/Blumkin—TLC-Cohen).	Commr.—2/6/79 Notice to Commr. for formal approval.	2
§§ 46, 47, 48. LR-73-75	Inc. Tax—Part 1—Changes in investment credit (§§ 301, 302, 604, TRA 1975, P.L. 94-12) (Mull/Blumkin—TLC-Cohen).	LR—1/30/79 Notice pub.	1
§§ 46. LR-139-76	Inc. Tax—Part 1—To conform to changes made by sec. 802, TRA 1976, & sec. 301 (a), Energy Tax Act 1978 (Mull/Blumkin).	LR—In LR for prep of notice.	2
§ 46(f). LR-1992	Inc. Tax—Part 1—Investment credit; Public utility property (RA 1971, § 105) (Lanning/Blumkin—TLC-Drapkin).	Commr. 2/17/72 Notice pub. 12/26/78 T.D. to Commr. for formal approval.	2
§ 46(e). LR-241-74	Inc. Tax—Part 1—Limitation on amount of investment credit allowed with respect to certain public utility property (Lanning/Blumkin—TLC-Drapkin).	LR—In LR for prep of notice.	2
§ 46(g). LR-248-76	Inc. Tax—Part 1—Investment credit in the case of certain ships (TRA 1976, § 805) (Klein/Felton—TLC-Cohen).	LR—In LR for prep of notice.	3
§ 46(k). LR-154-76	Inc. Tax—Part 1—Investment credit for movie & TV films (§ 804, TRA 1976) (Axelrod/Blumkin—TLC-Cohen).	Commr.—12/20/77 Notice pub. 3/1/78 Hrg. held 2/21/79 T.D. to Commr. for formal approval.	1
§ 48(l). LR-165-77	Inc. Tax—Part 1—Definition of energy property for the business of investment credit (Energy Tax Act 1978, § 301) (Mull/Blumkin).	TLC—2/13/79 Draft of notice to TLC.	
§§ 56, 57, 58. LR-151-76	Inc. Tax—Part 1—Minimum tax (TRA 1976, § 301; TR&SA, § 301) (Coplan/Blumkin—TLC-Goodman).	LR—In LR for prep of notice.	1
§ 61. LR-87-78	Inc. Tax—Part 1—Gross income—Taxation of fringe benefits (Katcher/Fischer—TLC-Galm).	LR—In LR for prep of notice.	2
§ 61. LR-194-77	Inc. Tax—Part 1—Nonqualified salary reduction agreements (Mantle/Dickinson—TLC-Sorensen).	LR—2/3/78 Notice pub. 5/4/78 Hrg. held. Consideration suspended pending Congressional study of legislation.	3
§§ 61, 162, 174, 263, 471. LR-253-76	Inc. Tax—Part 1—Prepublication expenditures of publishers (TRA 1976, § 2119) (Cubeta/Saverude).	LR—In LR for prep of notice.	2
§ 79. LR-1-77	Inc. Tax—Part 1—Group term life insurance (Par-cell/Rood—TLC-O'Laughlin).	TLC & T.—1/28/77 Notice pub. 3/21/77 Notice of withdrawal published 1/5/78 Rev. notice pub. 4/26/78 Hrg. held 1/22/79 T. D. fwd. for formal approval.	1
§ 79. LR-42-78	Inc. Tax—Part 1—Group term life insurance—Evi-dence of insurability (Parcell/Rood—TLC-O'Laughlin).	LR—In LR for prep of notice.	2
§ 83. LR-95-77	Inc. Tax—Part 1—Reporting requirements for non-qualified stock options (TRA 1969, § 321) (Lan-ning/Fischer—TLC-Sorensen).	LR—9/20/77 Notice pub. 3/20/78 Hrg. held.	1
§§ 84, 276, 501(a), 6012(a). LR-24-75	Inc. Tax—Part 1—Gift Tax—Part 25—Transfers of appreciated property to political orgs. & returns of such orgs. (P.L. 93-625, § 10(b)-(g), (13) (Thompson/Coulter—TLC-Schuldinger).	LR—Draft of notice ret'd. to LR for revision.	3
§ 103. LR-14-76	Inc. Tax—Part 1—Exclusion from income of interest on obligations issued to provide certain irri-gation facilities (Rev. Adj. Act 1975, § 7) (Tollens/Coulter—TLC-Drapkin).	LR—In LR for prep of notice.	3
§§ 103, 61, 162, 163, 165, 171, 249, 1232. LR-70-77	Inc. Tax—Part 1—To provide for the tax conse-quences of refunding industrial development bonds to the issuer, bondholder & industrial user (Dolan/Felton—TLC-Drapkin).	LR—12/6/77 Notice pub. 3/15/78 Hrg. held 2/6/79 2nd Notice pub.	1
§ 103(b). LR-233-78	Inc. Tax—Part 1—To clarify the definition of an air-port (MacMaster/Coulter—TLC-Drapkin).	LR—1/5/79 Notice pub.	
§ 103(a). LR-8-73	Inc. Tax—Part 1—To revise the definition of "on behalf of" (MacMaster/Coulter—TLC-Drapkin).	Treas.—2/2/76 Notice pub. 4/26/76 Hrg. held 8/16/78 T.D. to Treas. for formal ap-proval.	1
§ 103(b). LR-11-76	Inc. Tax—Part 1—To determine rules relating to ac-quisition of exempt facilities by a regional authori-ty (MacMaster/Coulter—TLC-Drapkin).	TLC—6/28/77 Draft of notice to TLC, T.C, T.I. 10/15/77 Comments from TC 1/23/78 Comments from T.I.	2
§ 103(b). LR-100-75	Inc. Tax—Part 1—To clarify the definition of prop-erty that is a solid waste disposal facility (MacMas-ter/Coulter—TLC-Drapkin).	TLC & T.C.—1/18/79 Draft of notice to TLC & T.C.	1
§ 103(b). LR-59-74	Inc. Tax—Part 1—To define the term "principal user of a facility" (Tollens/Coulter—TLC-Roche).	LR—In LR for prep of notice.	2
§ 103(c). LR-9-75	Inc. Tax—Part 1—To clarify the definition of prop-erty which is a pollution control facility (MacMas-ter/Coulter—TLC-Wiesner).	LR—8/20/75 Notice pub. 11/21/75 Hrg. held In LR for prep of T.D.	2
§ 103(d). LR-1671	Inc. Tax—Part 1—Arbitrage bonds (TRA 1969, § 601) (Marcinko/Coulter—TLC-Cohen).	TLC & T.I.—6/1/72 Notice pub. 5/3/73 Rev. notice pub. 12/3/75 2d Rev. notice pub. 10/29/76 3d Rev. notice pub. 12/20/76 Hrg. held 5/31/77 4th Rev. notice pub. 6/9/77 5th Rev. notice pub. 5/8/78 6th Rev. notice pub. 7/25/78 Hrg. held 9/7/78 Notice pub. 2/7/79 Hrg. held 2/26/79 Draft of T.D. to TLC & T.I.	1
§§ 104 (a) & (b), 105(d). LR-159-76	Inc. Tax—Part 1—Changes in exclusions for sick pay & certain military etc., disability pensions; Certain disability income (TRA 1976, § 505; TR&SA, § 301) (Parcell/Fisher—TLC-Flynn).	LR—In LR for prep of notice.	2

Part I—Regulations Under Development by the Legislation and Regulations Division—Continued

1954 code section and file No.	Subject and drafter and reviewer	Office in which pending and status	Priority
§ 118(b). LR-136-76	Inc. Tax—Part 1—Contributions in aid of construction for certain utilities (TRA 1976, § 2120) (Levine-Blumkin—TLC-Brown).	LR—5/30/78 Notice pub. 9/27/78 Hrg. held	1
§ 121 (b), (b), (d). LR-17-79	Inc. Tax—Part 1—Exclusion of \$100,000 gain from sale of personal residence (RA 1978, § 404) (Small/Smith).	TLC—2/26/79 Draft of T.D. to TLC	
§ 152 LR-224-76	Inc. Tax—Part 1—Support test for dependent children of divorced, etc. parents (TRA 1976, §§ 1901, 2139) (Alexander/Fischer—TLC-Galm).	LR—2/16/79 Notice approved by Commr.	3
§§ 162, 62, 262, 3121, 3306, 3401. LR-173-77	Inc. Tax—Part 1—Empl. Tax—Part 31—Deductibility of certain transportation expenses (Cubeta-Saverude—TLC-Roche).	CC—3/29/78 Rev. draft of notice to CC for informal approval	1
§§ 163(d), 703(b). LR-1639	Inc. Tax—Part 1—Limitation on interest deduction (TRA 1969, § 221; RA 1971, § 304; TRA 1976, §§ 209, 901(b)(21)(F)) (Lanning/Fischer—TLC-Flynn).	LR—11/28/77 Notice ref'd. to LR for revision	1
§ 166(f). LR-255-76	Inc. Tax—Part 1—Deduction for guarantees of business bad debts to guarantors not involved in business (TRA 1976, § 605) (Charnas/Saverude—TLC-Galm).	TLC—9/15/78 Notice pub. 1/12/79 Draft of T.D. to TLC & T.I. 1/24/79 Comments from T.I.	3
§ 166(f). LR-1173	Inc. Tax—Part 1—Deductions for additions to a reserve for certain guaranteed debt obligations (P.L. 89-722) (Rood/Fischer—TLC-Galm).	TLC—11/29/78 Draft of notice to TLC & T.I. 1/25/79 Comments from T.I.	3
§ 167(k). LR-141-78	Inc. Tax—Part 1—Depreciation of expenditures to rehabilitate low-income rental housing (TRA 1976, § 203) (Whedbee/Blumkin—TLC-Wiesner).	LR—5/8/78 Notice pub. 9/21/78 Hrg. held	2
§ 169(d)(1)(4). LR-193-76	Inc. Tax—Part 1—Amortization of certain pollution control facilities (TRA 1976, § 2112 (b), (c)) (MacMaster/Coulter).	LR—In LR for prep of notice	2
§ 170. LR-272-76	Inc. Tax—Part 1—Charitable contributions of inventory (TRA 1976, §§ 2035, 205(c)(1), 1052(c)(2), 1307(c), (d)(1), 1313(b)(1), (c), 1901(a)(28), (b)(8), 2124(e)(1)) (Murphy/Saverude—TLC-Sims).	TLC & T.I.—11/28/78 Draft of notice to TLC & T.I.	2
§§ 170(f)(3), 2522(c)(2). LR-200-76	Inc. Tax—Part 1—Est. Tax—Part 20—Gift Tax—Part 25—Transfers of partial interests in property for conservation purposes (TRA 1976, § 2124(e); TR&SA, § 309 (Small/Smith—TLC-Sims).	LR—In LR for prep of notice	3
§ 175. LR-1947	Inc. Tax—Part 1—Soil and water conservation expenditures— <i>Estate of Howard L. Straughn</i> , 55 T.C. 21 (1971) (Francis/Bromell).	LR—In LR for prep of notice	
§ 179(d)(8). LR-256-76	Inc. Tax—Part 1—Dollar limitation with respect to additional first-year depreciation allowance for small business in case of partnerships (Hartley/Smith—TLC-Drapkin).	LR—In LR for prep of notice	2
§ 183(e) LR-61-74	Inc. Tax—Part 1—Election to postpone application of sec. 183(d) presumption (§ 311, RA 1971; TRA 1976, § 214) (Alexander/Fischer—TLC-Flynn).	LR—9/18/75 Notice approved by Tech—New provisions to be added	3
§ 188. LR-2004	Inc. Tax—Part 1—Amortization of certain expenditures for on-the-job training and child care facilities (RA 1971, § 303; TR&SA 1977, § 402) (Coplan/Smith—TLC-Galm).	Treas.—8/31/78 Notice pub. 2/8/79 T.D. to Treas. for formal approval	3
§ 189 LR-145-76	Inc. Tax—Part 1—Amortization of real property construction period interest and taxes (TRA 1976, § 201) (Katcher/Fischer—TLC-Cohen).	LR—2/28/79 Notice ref'd. to LR for revision	2
§ 190. LR-257-76	Inc. Tax—Part 1—Deduction for eliminating certain barriers for the handicapped (TRA 1976, § 2122) (Coulter/Bromell—TLC-Schuldinger).	T.I.C.—4/4/77 Notice pub. 6/21/77 Hrg. held 12/11/78 Rev. draft of T.D. to TLC & T.I. 1/15/79 Comments from TLC.	2
§§ 191, 1245, 642(f), (a)(2)(B), 1250, 57 LR-199-76	Inc. Tax—Part 1—Amortization and depreciation of certain rehabilitation expenditures for, and disallowance of deduction for amounts expended in demolishing, certain historic structures (TRA 1976, § 2124(a)-(d); RA 1978, § 701(f)) (Hartley/Saverude—TLC-Schuldinger).	LR—8/30/78 Notice pub. 3/15/79 Hrg. to be held	2
§ 192 LR-62-78	Inc. Tax—Part 1—Contributions to Black Lung Benefit (Black Lung Benefit Trust Rev. Act of 1977, § 4(b)) (Kusma/Smith—TLC-Copeland).	LR—In LR for prep of notice	2
§ 217(b)(3), (c)(1) LR-258-76	Inc. Tax—Part 1—Increases in dollar amounts and decrease in mileage test for deductions for moving expenses (TRA 1976, § 506(a), (b)) (Coughlin/Coulter—TLC-Galm).	TLC & T.I.—11/3/78 Notice pub. 2/8/79 Final draft of TD to TLC & T.I.	2
§ 265. LR-152-76	Inc. Tax—Part 1—Disallowance of deductions relating to exempt-interest dividends of regulated investment companies (TRA 1976, §§ 2137(e), 1901(a)) (Kissel/Blumkin—TLC-Galm).	Treas.—7/28/78 Notice pub. 1/16/79 T.D. to Treas. for formal approval	2
§ 274(h). LR-260-76	Inc. Tax—Part 1—Deductions for attending foreign conventions (TRA 1976, § 602) (Cubeta/Coulter—TLC-Galm).	TLC—10/20/77 Draft of notice to TLC & T.I. 1/4/78 Comments from T.I.	1
§ 277. LR-1721	Inc. Tax—Part 1—Taxation of nonexempt membership organizations (§ 121(b)(3), TRA 1969) (Jacobson/Fischer—TLC-Schuldinger).	Commr.—5/6/72 Notice pub. 8/8/72 Hrg. held 5/8/78 Rev. notice to Commr. for formal approval	2
§ 280. LR-220-76	Inc. Tax—Part 1—Amortization of production cost of motion pictures, books, records, and other similar property (TRA 1976, § 210(a), (b)) (Jacobson/Fischer—TLC-Brown).	TLC—7/1/77 Rev. draft of notice to TLC & T.I. 2/14/78 Comments from T.I.	3
§ 280A. LR-261-76	Inc. Tax—Part 1—Deductions for expenses attributable to business use of homes, rental of vacation homes (TRA 1976, § 901) (Francis/Coulter—TLC-Flynn).	TLC—12/4/78 Rev. draft of notice to TLC & T.I. 1/4/79 Comments from T.I.	2

Part I—Regulations Under Development by the Legislation and Regulations Division—Continued

1954 code section and file No.	Subject and drafter and reviewer	Office in which pending and status	Priority
§ 303. LR-124-76	Inc. Tax—Part 1—Distributions in redemption of stock to pay death taxes (TRA 1976, § 2004(e)) (Kissel/Blumkin—TLC-Sorensen).	TLC—3/3/77 Draft of notice to TLC & T.C 5/17/77 Approved by T.C.	2
§ 305. LR-91-74	Inc. Tax—Part 1—To clarify meaning of term "reasonable redemption premium" (Kissel/Blumkin—TLC-Roche).	TLC—9/20/76 Rev. draft of notice to TLC.	2
§ 337. LR-227-78	Inc. Tax—Part 1—60 day extension of 12-month period if there is an involuntary conversion (P.L. 95-628) (Axelrod/Blumkin—TLC-Galm).	TLC—12/22/78 Draft of T.D. to TLC & T.FP. 1/24/79 Comments from TC.	
§ 337. LR-130-76	Inc. Tax—Part 1—Simultaneous liquidation of a parent and subsidiary (TRA 1976, §§ 2118, 1901(a)) (Axelrod/Blumkin—TLC-Galm).	LR—In LR for prep of notice	2
§§ 341 (a), (f), 301, 312(c), 453(d)(4). LR-764.	Inc. Tax—Part 1—Limitation on application of sec. 341 in case of certain sales of stock; certain tech. amendments (P.L. 88-484, §§ 1, 2) (Axelrod/Blumkin—TLC-Sims).	LR—7/6/77 Notice pub. 3/17/78 T.D. ret'd. to LR for revision	2
§ 351. LR-754	Inc. Tax—Part 1—Transfer by a cash basis taxpayer of unrealized accounts receivable, etc., to a corp. controlled by the transferee (Yecies/Blumkin—TLC-Cohen).	LR—12/7/77 Draft of notice ret'd. to LR for rev	2
§§ 351, 354, 356, 358, 374. LR-66-76.	Inc. Tax—Part 1—Tax treatment of exchanges under the Final System Plan for Con Rail (P.L. 94-253) (Levine/Blumkin—TLC-Cohen).	LR—8/30/78 Notice pub. 12/19/78 Hrg. held	3
§§ 351, 368. LR-1993	Inc. Tax—Part 1—Basis in stock of a corp. acquiring property in exchange for stock of corp. in control of acquiring corp. (Levine/Blumkin—TLC-Cohen).	LR—4/13/78 Notice ret'd. to LR for revision	1
§ 355. LR-936	Inc. Tax—Part 1—Distribution of stock and securities of a controlled corp. (Yecies/Blumkin—TLC-Cohen).	LR—1/13/77 Notice pub. (42 FR 2694). 1/21/77 Notice repub. (42 FR 3866). In LR for prep of T.D.	2
§ 367. LR-2-78	Inc. Tax—Part 1—Changes in ruling requirements under sec. 367 (other than subsec. (a)(2)) (TRA 1976, § 1042(a)) (Horowitz/Felton—ITC-Hoberton).	ITC & T.C—12/30/77 Notice pub. under LR-230-76. Hrg. to be held 2/16/79 T.D. fwd. for formal approval.	1
§ 367(a)(2). LR-231-76	Inc. Tax—Part 1—Exception for transfers of property from the U.S. designated by the Secretary (TRA 1976, § 1042(a)) (Horowitz/Felton—ITC-Hoberton).	LR—In LR for prep of notice	1
§§ 368(a)(2)(F), 721, 722, 723, 683. LR-135-76.	Inc. Tax—Part 1—Exchange funds (TRA 1976, § 2131) (Mull/Blumkin—TLC-Galm).	LR—In LR for prep of notice	1
§ 368(a)(2)(E), (b)(2). LR-1994	Inc. Tax—Part 1—Acquisition of a corp. by merger of a corp. controlled by the acquiring corp. (Levine/Blumkin—TLC-Cohen).	LR—4/13/78 Notice ret'd. to LR for revision	2
§§ 381(c)(17), 547. LR-225-78	Inc. Tax—Part 1—Deficiency dividends (Mull/Whedbee—TLC-Sims).	CC—1/29/79 T.D. To CC for formal approval	
§§ 382, 383, 368(c). LR-136-76	Inc. Tax—Part 1—Limitations on certain carryovers (TRA 1976, §§ 806 (e), (f) 1031(b)) (Yecies/Blumkin—TLC-Cohen).	LR—In LR awaiting Cong. consideration of additional revision of § 382	3
§ 385. LR-1661	Inc. Tax—Part 1—Treatment of certain corporate interests as stock or indebtedness (§ 415, TRA 1969) (Levine/Blumkin—TLC-Cohen).	LR—1/23/79 Notice ret'd. to LR for revision	1
§ 414 (b) and (c). LR-209-74	Inc. Tax—Part 1—Definitions and special rules (P.L. 93-406, § 1015) (Yecies/Blumkin—TLC-Sorensen).	TLC & EP—11/5/75 Notice pub. 1/13/76 Draft of T.D. to TLC & EP	3
§ 414(e). LR-193-74	Inc. Tax—Part 1—Definition of church plans (P.L. 93-406, § 1015) (Jacobson/Rood—TLC-Melten).	TLC & EP—4/8/77 Notice pub. 10/6/77 Hrg. held. 7/26/78 Rev. draft of T.D. to TLC & EP	2
§§ 422, 424. LR-157-76	Inc. Tax—Part 1—Change in treatment of qualified stock options (Alexander/Fischer—TLC-Sorensen).	LR—12/18/78 Notice pub	3
§ 423. LR-1111	Inc. Tax—Part 1—Stock option regulations (Alexander/Fischer—TLC-Sorensen).	LR—2/20/79 Notice pub	3
§ 447. LR-143-76	Inc. Tax—Part 1—Method of accounting for corps. engaged in farming (TRA 1976, § 207(c)) (Katcher/Rood—TLC-Brown).	TLC—5/18/78 Draft of notice to TLC & T.C 6/26/78 Comments from T.C.	2
§ 453. LR-32-75	Inc. Tax—Part 1—Adoption of installment method of reporting by dealers of personal property (§ 1.453-8) (Rood/Fischer—TLC-Brown).	LR—In LR for prep of notice	3
§ 453. LR-635	Inc. Tax—Part 1—Election to adopt installment method of reporting income from sale of real property or casual sale of personal property (Rood/Fischer—TLC-Brown).	LR—3/21/78 Notice ret'd. to LR for revision	3
§ 461. LR-190-76	Inc. Tax—Part 1—Treatment of prepaid interest (TRA 1976, §§ 208, 1901(a) (69)) (Alexander/Fischer—TLC-Brown).	LR—2/28/78 Draft of notice ret'd. to LR for rev	1
§§ 463, 81. LR-6-75	Inc. Tax—Part 1—Accrual of vacation pay (P.L. 93-625) (Katcher/Fischer—TLC-Brown).	TLC—3/28/78 Rev. draft of notice to TLC & T.C 4/19/78 Comments from T.C.	1
§§ 464, 278(b). LR-144-76	Inc. Tax—Part 1—Limitations on deductions in case of farming syndicates (TRA 1976, § 207 (a), (b)) (Alexander/Rood—TLC-Brown).	TLC—11/7/78 Rev. draft of notice to TLC & T.I. 11/22/78 Comments from T.I.	2
§ 465. LR-168-76	Inc. Tax—Part 1—Determination of amounts at risk with respect to certain activities (TRA 1976, § 204) (Jacobson/Fischer—TLC-Drupkin).	TLC & T—2/15/79 Notice fwd. for formal approval	1
§ 466(d). LR-216-78	Inc. Tax—Temp Regs.—Part 5—Exclusion from gross income with respect to qualified discount coupon redeemed after close of taxable year (RA 1978, § 373(a)) (Lanning/Fischer—TLC-Brown).	TLC—12/26/78 Draft of T.D. to TLC & T.C 2/26/79 Comments from T.C.	
§ 471. LR-2158	Inc. Tax—Part 1—Inventories at cost or market, whichever is lower (Lanning/Fischer—TLC-Brown).	TLC—6/1/77 Final draft of notice to TLC	2

Part I—Regulations Under Development by the Legislation and Regulations Division—Continued

1954 code section and file No.	Subject and drafter and reviewer	Office in which pending and status	Priority
§ 472. LR-147-75	Inc. Tax—Part 1—Conformity requirements for LIFO taxpayers; use of market value (Lanning/Fischer—TLC-Brown).	TLC—12/26/78 Rev. draft of notice to TLC	1
§ 482. LR-307-76	Inc. Tax—Part 1—Allocation of income & deductions among T/P's to revise percentage applied in determining rental charge for use of tangible property to reflect amdt. of regs. to provide for a "safe haven" imputed interest rate of 6-8 percent (Horowitz/Felton—ITC-Kau).	LR—1/19/79 Notice ret'd. to LR by CG/LS for rev.	2
§§ 501(c)(3), 170(c)(2)(B), 2055(a), LR-172-76	Inc. Tax—Part 1—Exemption of certain amateur activities orgs. from tax (TRA 1976, § 1313)(Parcell/Fischer—TLC-Sims).	TLC—11/20/78 Rev. draft of notice to TLC	3
§§ 512(a)(3), 501(c)(7), (9), LR-1744	Inc. Tax—Part 1—Social clubs—Unrelated business income (TRA 1969, § 121(b)(1)) (Jacobson/Fischer—TLC-Sims).	TLC & EO—5/13/71 Notice pub. 8/31/71 Hrg. held 7/25/78 Final draft of T.D. to TLC & EO.	2
§ 527. LR-16-75	Inc. Tax—Part 1—Political organizations (P.L. 93-625) (Katcher/Felton—TLC-Schuldinger).	LR—11/24/78 Notice pub. 2/24/77 Hrg. held 8/23/78 Draft of T.D. ret'd. to LR	1
§§ 528, 6012. LR-165-76	Inc. Tax—Part 1—Treatment of Homeowners Associations (TRA 1976, § 2101) (Jacobson/Fischer—TLC-Sims).	LR—1/9/79 Notice pub.	3
§ 532. LR-125-78	Inc. Tax—Part 1—To apply accumulated earnings tax to corps. to avoid income tax on certain foreign corp. shareholders (Klein/Felton).	LR—In LR for prep of final draft of notice	
§§ 541-45, 551-55. LR-680	Inc. Tax—Part 1—Various section of the Code affecting personal holding cos. (§ 225, in part), RA 1964; also P.L.'s 89-809, § 104(h), 206, 91-172, § 101(j)(16); TRA 1976, §§ 211, 2106) (Thompson/Saverude—TLC-Sims).	TLC—9/5/68 Notice pub. 11/3/78 Draft of rev. notice to TLC & T.C. 11/30/78 Comments from T.C.	2
§§ 584(a)(1), (c)(1)(A) & (B), (c)(2), (e), 6032. LR-133-76	Inc. Tax—Part 1—Tax treatment of common trust funds (P.L.'s 94-414, § 1; 94-455; TRA 1976, §§ 2138(a), 1402(b), 1901(b), 2131(d)) (Schreiner/Coulter—TLC-Sims).	TLC—3/29/77 Draft of notice to TLC & T.C. 5/31/77 Comments from T.C.	2
§ 593(b) (3), (4), (5). LR-152-73	Inc. Tax—Part 1—Reserves for losses on loans of mutual savings banks, etc. (TRA 1969 § 432(a)) (Dean/Coulter—TLC-Brown).	LR—In LR for prep of notice	3
§ 593-6A(b)(5)(vi). LR-207-78	Inc. Tax—Part 1—Computation of taxable income for purposes of percentage-of-taxable-income bad debt deduction for thrift institutions (Axelrod/Blumkin—TLC-Rocha).	LR—12/29/78 Notice pub. 3/6/79 Hrg. to be held	
§§ 612, 613. LR-1148	Inc. Tax—Part 1—Restoration of depletion deductions on bonus and advanced royalties in certain cases (Woo/Bromell—TLC-Schuldinger).	TLC—12/16/74 Draft of notice to TLC & T.C. 4/76 Comments from T.C.	2
§ 613. LR-2073	Inc. Tax—Part 1—Percentage depletion deduction—To clarify rules relating to determination of gross income from the property in the case of oil & gas wells (Woo/Bromell—TLC-Schuldinger).	TLC 5/3/73 Partial draft of notice to TLC & T.C. Comments from T.C.	2
§ 613 (b). LR-2072	Inc. Tax—Part 1—Percentage depletion rates (§ 501, TRA 1960; Also P.L. 89-809, §§ 207, 208, 209 (Woo/Bromell—TLC-Schuldinger).	TLC & T.C.—12/12/78 Rev. draft of notice to TLC & T.C.	2
§§ 613A, 703 (a), 705 (a). LR-105-75	Inc. Tax—Part 1—Supplementary rules on limitations on percentage depletion for oil & gas (TRA 1975, § 501; TRA 1976, §§ 1901 (a)(86), 2115) (Woo/Bromell—TLC-Schuldinger).	TLC—5/13/77 Notice pub. 8/31/77 Hrg. held 8/2/78 Draft of T.D. to TLC & T.C. 9/78 Comments from T.C.	1
§ 642 (g). LR-183-76	Inc. Tax—Part 1—Certain expenses of estates (TRA 1976, § 2009 (d)) (Waltuch/Smith—TLC-Sorensen).	LR—5/24/78 Notice ret'd. to LR for revision	3
§ 642 (i). LR-287-76	Inc. Tax—Part 1—Cemetery perpetual care funds (P.L. 94-528) (Coplan/Smith—TLC-Sims).	TLC & T.C.—8/2/78 Notice pub. 11/29/78 Hrg. held 1/29/79 Draft of T.D. to TLC & T.C.	2
§§ 644, 641 (b). LR-188-76	Inc. Tax—Part 1—Special rule for property transferred at less than fair market value (TRA 1976, § 701 (e)) (TRA 1978, § 701 (p)) (Kusma/Smith—TLC-Sorensen).	LR—In LR for prep of notice	2
§ 663. LR-1350	Inc. Tax—Part 1—To limit application of separate share rule in the case of certain successive interests (Grundeman/Smith—TLC-Gutman).	TLC & T.C.—8/29/78 Notice pub. 2/12/79 Draft of T.D. to TLC & T.C.	3
§§ 664, 170A. 25.2522. LR-42-73	Inc. Tax—Part 1—To provide rules for application of charitable remainder trust provisions to certain living trusts (Coplan/Smith—TLC-Sims).	LR—In LR for prep of notice	3
§§ 667, 666 (e), 668, 665 (b), (e), (g), 669, 1302 (a)(2)(B), (b)(2)(B), 6401 (b). LR-184-76	Inc. Tax—Part 1—Proc. & Admin.—Part 301—Accumulation trusts (TRA 1976, §§ 701 (a)-(d), (f), 1014) (Hartley/Smith—TLC-Sorensen).	LR—In LR for prep of notice	2
§§ 679, 678 (b), 643 (a)(C), (D), (d), 6048, 6677. LR-187-76	Inc. Tax—Part 1—Proc. & Admin.—Part 301—Foreign trusts having U.S. beneficiaries (TRA 1976, § 1013) (Kusma/Smith—ITC-Langbein).	LR—In LR for prep of notice	2
§ 704 (b). LR-262-76	Inc. Tax—Part 1—Determination of partner's distributive share (TRA 1976, § 213 (d)) (Cubeta/Bromell—TLC-Drapkin).	TLC & T.C.—11/30/78 Draft of notice to TLC & T.C.	2
§§ 706 (c) (2) (B), 704. LR-265-76	Inc. Tax—Part 1—Items allocated to portion of year partner held interest (TRA 1976, § 213(c)) (Francis/Bromell—TLC).	LR—7/25/78 Draft of notice to T.C. 8/31/78 Comments from T.C.	2
§ 707 (c). LR-2127	Inc. Tax—Part 1—To conform the income tax regs. relating to guaranteed payments to partners to sec. 213(b)(3) of TRA 1976 to the Miller & Carey decisions (Francis/Bromell—TLC).	TLC—3/12/78 Draft of notice to TLC & T.C. 4/22/76 Comments from T.C.	2
§ 709. LR-266-76	Inc. Tax—Part 1—Clarification of treatment of partnership syndication fees, etc. (TRA 1976, § 213 (b)) (Coughlin/Bromell—TLC).	TLC & T.C.—12/19/78 Rev. draft of notice to TLC & T.C.	2
§§ 852, 857. LR-23-79	Inc. Tax—Part 5—Temp. Regs.—To provide additional rules re treatment of capital gains of regulated investment cos. & real estate investment trusts (Schreiner/Mantle).	LR—In LR for prep of T.D.	

Part I—Regulations Under Development by the Legislation and Regulations Division—Continued

1954 code section and file No.	Subject and drafter and reviewer	Office in which pending and status	Priority
§§ 856-860, 172 (b), (d), 316(b), 381(c)(25), 443(e)(5), 4981, 6161(b), 6211-6213(a), 6214, 6344(a), 6422, 6503(f), 6512, 6515, 6601(c), 6697, 7422. LR-218-76.	Inc. Tax—Part 1—Real Estate Investment Trusts (TRA 1976, §§ 1601-1608, 1901 (a), (b), 1906 (a), (f)) (P.L. 93-625, sec. 6) (Whedbee/Blumkin—TLC-Galm).	LR-7/7/78 Notice pub. 12/20/78 Hrg. held	2
§ 861 (a) (1) (B). LR-173-75	Inc. Tax—Part 1—To determine source of interest on court judgments, source of commitment fees & acceptance fees, & application of § 861 to interest paid by certain domestic corps.—Amdmt. of § 1.861-4 to determine application of payroll cost method (Renfro/Felton—ITC-Langbein).	LR-6/2/78 Notice ret'd. to LR for revision	2
§ 861(a)(1)(H). LR-41-75	Inc. Tax—Part 1—Subch. N—As added by sec. 9(a) of P.L. 93-625, with respect to source of interest of certain debt obligations (Renfro/Felton—ITC-Langbein).	LR—In LR for prep of notice	3
§ 861(a)(7). LR-71-77	Inc. Tax—Part 1—Source of income of underwriting income (TRA 1976, § 1036) (Renfro/Felton—ITC-Kau).	LR—In LR for prep of notice	2
§ 861(e). LR-2006	Inc. Tax—Part 1—Election to treat income from certain aircraft and vessels as income from sources within the U.S. (§ 314, RA 1971) (Duffy/Felton—ITC-Kau).	LR-7/24/75 Notice pub. 8/31/76 Hrg. held. 3/1/77 Draft of T.D. to ITC & T.C. 5/20/77 Comments from T.C. 11/3/78 Comments from ITC.	3
§§ 871, 881, 1441, 1442. LR-2043	Inc. Tax—Part 1—Original issue discount (RA 1971, § 313) (Dolan/Felton—ITC-Langbein).	TLC-7/12/76 Notice pub. 11/18/76 Hrg. held. 9/11/78 Draft of T.D. to TLC & T.C. 10/12/78 Comments from TC.	1
§§ 892, 893, 895, 47.4382. LR-106-75.	Inc. Tax—Part 1—Exemption of income of foreign gov'ts., employees of foreign gov'ts. & foreign central banks of issue, and exemption from tax on issuance of certificates of indebtedness issued by any foreign government (Duffy/Felton—ITC-Hannes).	LR-8/15/78 Notice pub. 1/23/79 Hrg. held	1
§§ 901, 903. LR-100-78	Inc. Tax—Part 1—To provide rules setting forth requirements for creditable foreign taxes (Dolan/Felton—ITC-Kau).	LR—Draft of notice ret'd. to LR for revision	1
§ 901(f). LR-65-75	Inc. Tax—Part 1—Certain payments for oil or gas not to be considered as taxes (§§ 275(a), 901, 601(b), TRA 1975, P.L. 94-12) (Duffy/Blumkin—ITC-Hannes).	LR—In LR for prep of final draft of notice	1
§§ 902, 78, 960, 535(b)(1), 545(b)(1). LR-229-76.	Inc. Tax—Part 1—Dividends from less developed country corps. to be grossed up for purposes of foreign tax credit (TRA 1976, § 1033) (Renfro/Felton—ITC-Kau).	LR-12/29/78 Notice pub	3
§ 902. LR-196-75	Inc. Tax—Part 1—To clarify rules for determining earnings & profits of a foreign corp. & amount of creditable foreign taxes (Horowitz/Felton—ITC-Hannes).	ITC-4/7/78 Draft of notice to ITC & T.C. 4/24/78 Comments from T.C.	2
§ 904(b)(2) & (3). LR-228-76	Inc. Tax—Part 1—Limitation on, and treatment of, capital gains for purposes of foreign tax credit (TRA 1976, §§ 1031, 1034; RA 1978, §§ 403(c)(4), 701(u)(2) & (3) (Klein/Felton—ITC-Kau).	LR—In LR for prep of notice	2
§ 904(e). LR-11-77	Inc. Tax—Part 1—Transitional rules for carrybacks & carryovers of foreign tax credits as a result of repeal of per-country limitation by sec. 1031(a), TRA 1976 (Dolan/Felton—ITC-Kau).	LR—In LR for prep of notice	2
§ 904(f). LR-3-77	Inc. Tax—Part 1—Recapture of foreign losses (TRA 1976, § 1032) (Renfro/Felton—ITC-Hannes/Kau).	LR—In LR for prep of notice	2
§ 907. LR-70-75	Inc. Tax—Part 1—Limitation dealing with foreign tax credit for taxes paid in connection with foreign oil & gas income (§ 601, TRA 1975; § 1035, TRA 1976) (Duffy/Blumkin—ITC-Hannes).	CC/LS-2/23/79 Notice fwd. to CC/LS for formal approval	1
§§ 911, 913. LR-2-79	Inc. Tax—Part 5b—Temp. Regs.—Treatment of foreign earned income derived by U.S. citizens & residents (Foreign Earned Income Act 1978 §§ 4, 202, 203) (Dolan/Felton).	ITC & T.C.—2/12/79 Draft of T.D. to ITC & T.C.	
§ 936(e). LR-139-76	Inc. Tax—Part 7—Temp. Regs.—Time for making an election (TRA 1976, § 1051(b)) (Horowitz/Felton—ITC-Langbein).	LR-2/22/79 T.D. ret'd. to LR for revision	
§§ 936, 33, 931, 901(d), (g), 904(b), 243(b)(1), 246, 1504(b)(4), 48(a)(2)(B), 116(b)(2), 861(a)(2)(A), 6091(b)(2). LR-247-76.	Inc. Tax—Part 1—Tax treatment of corps. conducting a trade or business in Puerto Rico & possession of the U.S. (TRA 1976, § 1051) (Horowitz/Felton—ITC-Langbein).	LR—In LR for prep of notice	2
§ 936(d)(2). LR-106-77	Inc. Tax—Part 1—Definition of qualified possession source investment income for purposes of Puerto Rican & possession tax credit (TRA 1969, § 1051) (Horowitz/Felton—ITC-Langbein).	ITC & T.C.—2/8/79 Rev. draft of T.D. to ITC & T.C.	2
§§ 951, 954, 955. LR-68-75	Inc. Tax—Part 1—Current taxation of shipping profits of controlled foreign corps. except to extent such profits are reinvested in shipping operations (§ 602(d), TRA 1975; TRA 1976, § 1024) (Klein/Saverude—ITC-Hannes).	LR-8/9/76 Notice pub. 8/22/77 Temp. Regs. T.D. 7503 published [Perm. regs. to be issued under this file].	1
§§ 951(a), 954(b)(1), (f), 955. LR-67-75.	Inc. Tax—Part 1—Conforming regs. to certain amendments to subpart F (§ 602(a)(3)(B) & (c) (other than (c)(6)), TRA 1975, P.L. 94-12) (Klein/Saverude—ITC-Hannes).	LR-2/9/78 Notice pub.	2
§§ 952, 995, 964. LR-234-78	Inc. Tax—Part 1—Denial of certain tax benefits in connection with the payment of certain bribes (TRA 1976, §§ 1065, 1066(b)) (Duffy/Felton—ITC-Holberton).	LR—In LR for prep of notice	3

Part I—Regulations Under Development by the Legislation and Regulations Division—Continued

1954 code section and file No.	Subject and drafter and reviewer	Office in which pending and status	Priority
§ 954(c)(3)(C). LR-226-76	Inc. Tax—Part 1—Exclusion from subpart F of certain earnings of insurance companies (TRA 1976, § 1023) (Duffy/Saverude—ITC-Kau).	Commr.—1/4/79 Notice to Commr. for formal approval	2
§§ 956(d)(2), 958(b). LR-227-76	Inc. Tax—Part 1—Investment in U.S. property by controlled foreign corporation; clarification of term "pledge or guarantee" (TRA 1976, § 1021) (Duffy/Felton—ITC-Kau).	Commr.—1/12/79 Notice to Commr. for formal approval	2
§ 960(a)(1). LR-237-76	Inc. Tax—Part 1—Third tier foreign tax credit when sec. 951 applies (TRA 1976, § 1037) (Rentree/Bonanno—ITC-Kau).	LR—In LR for prep of notice	3
§§ 993(c)(2), (d), 995(c), 751(c), 996(a)(2). LR-245-76	Inc. Tax—Part 1—Misc. DISC amtds. (TRA 1976, § 1101(c), (e) & (g)(1)-(4)) (Klein/Felton—ITC-Langbein).	LR—In LR for prep of notice	2
§ 993. LR-92-77	Inc. Tax—Part 1—DISC—Definition of trade receivable (Act of 1971, § 501) (Duffy/Felton—ITC-Langbein).	ITC—1/6/78 Rev. draft of notice fwd. to ITC & T.C 2/22/78 Comments from T.C.—Further legal research to be done by CCI.	2
§ 995. LR-246-76	Inc. Tax—Part 1—Amendments affecting DISC pertaining to military sales & incremental export gross receipts (TRA 1976, § 1101(a), (g)(1) & (5)) (Duffy/Felton—ITC-Langbein).	ITC—11/17/78 Rev. draft of notice to ITC & T.C 12/29/78 Comments from T.C.	2
§§ 999, 908, 952(a), 995(b)(1). LR-235-76	Inc. Tax—Part 1—Denial of certain tax benefits for cooperation with or participation in international boycotts (TRA 1976, §§ 1061-1064, 1066(a), 1067) (Dolan/Felton—ITC-Holberton).	LR—In LR for prep of notice	3
§§ 1014(d), 1023, 1016(a)(23), 691(c)(2)(A), (C), 1246. LR-196-76	Inc. Tax—Part 1—Carryover basis (TRA 1976, § 2005(a)) (Small/Smith—TLC-Sorensen).	TLC—5/3/78 Draft of notice to TLC & T.C 6/19/78 Comments from T.C.	1
§ 1033. LR-267-76	Inc. Tax—Part 1—Involuntary conversion of real property (TRA 1976, §§ 2140, 1901(a)(128)) (Cubeta/Saverude—TLC-Flynn).	Tech—10/17/78 Notice pub. 2/26/79 T.D. circulated for formal approval	2
§ 1033(g)(3). LR-268-76	Inc. Tax—Part 1—Election to treat outdoor advertising displays as real property (TRA 1976, § 2127) (Chamas/Bromell—TLC-Flynn).	TLC—11/30/78 Draft of notice to TLC & T.C 1/5/79 Comments from T.C.	2
§§ 1040, 1015(d)(6). LR-214-76	Inc. Tax—Part 1—Various rules relating to carryover basis (TRA 1976, § 2005(b), (c)) (Kusma/Smith—TLC-Sorensen).	LR—In LR for prep of notice	2
§§ 1056, 1245. LR-222-76	Inc. Tax—Part 1—Basis limitation & recapture of depreciation on player contracts (TRA 1976, §§ 212 (a), (b), 1901(b)(11)(D), 1951(c)(2)(C), 2122(b)(3), 2124(a)(2)) (Rood/Fischer—TLC-Flynn).	LR—Notice ret'd to LR for revision	3
§§ 1101, 1102, 1103, 311, 6151, 6158, 6503, 6601. LR-286-76	Inc. Tax—Part 1—Divestitures of assets by bank holding companies (P.L. 94-452) (Levine/Blumkin—TLC-Rochel).	TLC & T.FP—12/27/78 Draft of notice to TLC & T.FP	3
§ 1211(b). LR-269-76	Inc. Tax—Part 1—Increase in amount of ordinary income against which capital loss may be offset (TRA 1976, § 1401) (Cubeta/Coulter—TLC-Flynn).	Treas.—5/31/78 Notice pub. 2/21/79 T.D. approved by Treas.	2
§ 1212(a)(1). LR-270-76	Inc. Tax—Part 1—Allowance of 8-year capital loss carryover in case of regulated investment companies (TRA 1976, §§ 1403, 1901(b)(3)(O)) (Schreiner/Coulter—TLC-Galm).	TLC—10/24/78 Draft of notice to TLC & T.C 12/28/78 Comments from T.C.	2
§ 1222. LR-273-76	Inc. Tax—Part 1—Increase in holding period required for capital gain or loss to be long term (TRA 1976, §§ 1402, 1901(a) (136)) (MacMaster/Coulter—TLC-Flynn).	LR—In LR for prep of notice	2
§ 1232(a)(3). LR-43-76	Inc. Tax—Part 1—Treatment of original issued discount on certain short-term obligations (Tollers/Mantle—TLC-Sims).	TLC—1/18/79 Rev. draft of notice to TLC & T.C 2/7/79 Comments from T.C.	2
§ 1234. LR-274-76	Inc. Tax—Part 1—Tax treatment of the grantor of options of stock, securities & commodities (TRA 1976, §§ 1236, 1402(b)(1)(U)) (Marcinko/Coulter—TLC-Galm).	TLC & T.C—2/15/79 Notice fwd. for formal approval	2
§§ 1248, 751. LR-232-76	Inc. Tax—Part 1—Gain from sale or exchange of stock in foreign corps. (TRA 1976, §§ 1022, 1042 (b), (c)) (Horowitz/Felton—ITC-Hannes).	ITC—1/1/78 Draft of notice to ITC & T.C 1/15/79 Comments from T.C.	2
§ 1250. LR-131-76	Inc. Tax—Part 1—Recapture of depreciation on real property (TRA 1976, §§ 202, 1901(b), 1951(e), 2122(b), 2124(a)) (Dean/Mantle).	LR—In LR for prep of notice	3
§ 1253. LR-1644	Inc. Tax—Part 1—Transfer of franchises; trademarks and trade names (TRA 1969, § 516(c)) (Tollers/Rood—TLC-Sims).	TLC—7/15/71 Notice pub. 6/14/76 Draft of rev. notice to TLC & T.C 1/24/77 Comments from T.C.	2
§ 1254, 751(c). LR-276-76	Inc. Tax—Part 1—Gain from disposition of interest in oil or gas property (TRA 1976, §§ 205, 1901(a) (93)) (Mantle/Saverude—TLC-Schuldinger).	TLC—10/5/78 Draft of notice to TLC & T.C 1/79 Comments from T.C.	2
§ 1348. LR-156-76	Inc. Tax—Part 1—Maximum tax on personal service income (TRA 1976, § 302) (Lanning/Dickinson—TLC-Galm).	LR—5/10/77 Notice ret'd. to LR for revision	2
§ 1371. LR-4-73	Inc. Tax—Part 1—Treatment of obligations which purport to represent debt as a second class of stock (Woo/Saverude—TLC-Cohen).	LR—11/11/76 Rev. draft of notice to TLC & T.C 12/14/76 Comments rec'd. from T.C. 11/29/78 Comments from TLC.	2
§§ 1371, 1372. LR-277-76	Inc. Tax—Part 1—Certain rules relating to shareholders of subchapter S corporations (TRA 1976, §§ 902(a) & (c); 1901(a)(149)) (Murphy/Saverude—TLC-Cohen).	LR—3/15/78 Notice ret'd. to LR for revision	2

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1954 code section and file No.	Subject and drafter and reviewer	Office in which pending and status	Priority
§ 1377 (d). LR-278-76.....	Inc. Tax—Part 1—Distributions by subchapter S corporations (TRA 1976, §§ 902(b); 1901 (b)(32)(iv)) (Woo/Saverude—TLC-Cohen).	LR—1/12/79 Notice pub.....	2
§§ 1385, 1388. LR-1175.....	Inc. Tax—Part 1—Relating to tax treatment of per unit retain allocations (P.L. 89-809, § 211) (Parcell/Fischer—TLC-Schuldinger).	TLC—4/11/74 Draft of notice to TLC & T.C 1/26/76 Comments from TC.....	3
§ 1441. LR-2139.....	Inc. Tax—Part 1—Withholding of income tax on payments to Virgin Island inhabitants (Duffy/Felton—ITC-Langbein).	LR—In LR for prep of notice.....	3
§§ 1491, 1057. LR-236-76.....	Inc. Tax—Part 1—Excise tax on transfers of property to foreign persons to avoid the Federal income tax (TRA 1976, § 1015) (Duffy/Felton—ITC-Langbein).	ITC—1/31/79 Rev. draft of notice to ITC.....	
§ 1502. LR-1086.....	Inc. Tax—Part 1—Revision of regs. under sec. 1502 re personal holding companies (Whedbee/Blumkin—TLC-Brown/Cohen).	TLC—8/12/75 Draft of notice to TLC & T.C 1/5/76 Comments from T.C Awaiting completion of LR-1386.	2
§ 1502. LR-140-73.....	Inc. Tax—Part 1—Miscellaneous & Technical Amendments to consolidated return regulations (Axelrod/Blumkin—TLC-Cohen/Brown).	LR—3/21/78 Notice ret'd. to LR for revision.....	1
§§ 1502, 596. LR-18-78.....	Inc. Tax—Part 1—Dividends received deduction for thrift institutions consolidated returns (Axelrod/Blumkin—TLC-Cohen).	Commr.—8/30/78 Notice pub. 2/22/79 T.D. to Commr. for formal approval.....	1
§ 1502. LR-45-76.....	Inc. Tax—Part 1—To provide rules for consolidated application of § 613A of the Code re limitations on percentage depletion in the case of oil & gas wells (TRA 1975, § 501) (Axelrod/Blumkin—TLC-Cohen/Brown).	LR—12/29/77 Notice ret'd. to LR for revision.....	2
§ 1502. LR-94-74.....	Inc. Tax—Part 1—To provide consolidated return rules relating to life insurance companies subject to tax under Subch. L (Duffy/Blumkin—TLC-Sims).	LR—In LR for prep of notice.....	1
§ 1502. LR-1386.....	Inc. Tax—Part 1—Consolidated return regs.—Revision of regs. under sec. 1502 re accumulated earnings tax (Whedbee/Blumkin—TLC-Cohen).	T:FP—7/9/68 Notice pub. 9/12/68 Hrg. held. 8/25/71 Notice withdrawn. 11/14/78 Draft of rev. notice to TLC & T:FP. 11/20/78 Comments from TLC.	3
§ 1502. LR-113-77.....	Inc. Tax—Part 1—Consolidated return regulations—Investment adjustments (Axelrod/Blumkin—TLC-Cohen/Brown).	LR—In LR for prep of notice.....	1
§ 1502. LR-2086.....	Inc. Tax—Part 1—Reflect amendments to various sections of the Code by the TRA 1969 and RA 1971 (Axelrod/Blumkin—TLC-Brown/Cohen).	TLC—1/4/73 Notice pub. 3/15/73 Hrg. held. 6/21/78 Rev. draft of T.D. to TLC. Awaiting further comment from TLC.	1
§ 1502. LR-29-76.....	Inc. Tax—Part 1—Reflect amendments of consolidated return regs. to reflect Merchant Marine Act of 1970 concerning Merchant Marine & Fisheries Capital Construction Funds (Axelrod/Blumkin—TLC-Cohen).	LR—In LR for prep of notice.....	2
§ 1504(d). LR-189-77.....	Inc. Tax—Part 1—Includibility in an affiliated group of subsidiaries formed to comply with foreign laws (Axelrod/Blumkin—ITC-Langbein).	LR—1/17/79 Notice ret'd. to LR for revision.....	3
§§ 2001, 2010, 2012 (a), (e), 2052, 2035, 2502, 2505, 2521, 2011, 2013 (b), (e) (1), 2101, 2102, 2106(a)(3), 2014(b)(2), 2206, 2207, 6018, 2038(a), 2104, 2004, 2504. LR-212-76.....	Est. & Gift Taxes—Parts 20 & 25—Unified rate schedule for estate and gift taxes and unified credit in lieu of exemptions (TRA 1976, § 2001) (Grundeman/Smith—TLC-O'Laughlin).	LR—In LR for prep of notice.....	2
§§ 2032A, 6166 (d), (e), (f), (h), 6324A (a), (c), 6601(g), 2013(f). LR-203-76.....	Est. Tax—Part 20—Various estate tax elections & valuation of certain farm etc., real property (TRA 1976, §§ 2003 (a), (c), 2004 (a), (b), (d)) (RA 1978, § 702(d)) (Hartley/Smith—TLC-O'Laughlin).	LR—7/13/78 Notice pub. [PART I]—7/19/78 Notice pub. [PART II]—12/21/78 Notice pub. [PART III]—4/3/79 Hrg. to be held.	1
§ 2036(a), 2039 (c), (e). LR-181-76.....	Est. & Gift Taxes—Parts 20 & 25—Inclusion of stock in estate where decedent retained voting rights & exclusion of retirement benefits from gross estate (RA 1978, § 702(i)) (Kusma/Smith—TLC-O'Laughlin).	LR—In LR for prep of notice.....	3
§ 2040. LR-180-76.....	Est. Tax—Part 20—Fractional interest of spouse (TRA 1976, § 2002 (c), (d), (3)) (Small/Grundeman—TLC-O'Laughlin).	LR—In LR for prep of notice.....	2
§ 2053-3 (c) (3). LR-164-74.....	Est. Tax—Part 20—Deductibility of certain attorneys' fees (Coplan/Smith—TLC-Gutman).	LR—12/29/78 Notice pub.....	3
§ 2040(d). LR-16-79.....	Est. Tax—Part 23—Temp. Regs.—Election to treat certain jointly held property as qualified joint interest (RA 1978, § 702(k)) (Small/Smith).	LR—In LR for prep of T.D.....	
§ 2055(e). LR-259-74.....	Est. Tax—Part 20—Disallowance of charitable deduction—Extension of time within which to amend governing instruments in order to qualify as a charitable remainder annuity trust, unitrust, or pooled income fund (P.L. 93-483, § 3) (Grundeman/Smith—TLC-O'Laughlin).	LR—12/19/75 Notice pub. 3/30/76 Hrg. held In LR for prep of T.D.....	2
§§ 2056(c)(1), 2523(a). LR-211-76.....	Est. & Gift Taxes—Parts 20 & 25—Increase in limitations on marital deductions (TRA 1976, § 2002 (a), (b), (d) (1), (2)) (Small/Grundeman—TLC-O'Laughlin).	LR—In LR for prep of notice.....	3
§ 2057. LR-182-76.....	Est. Tax—Part 20—Deduction for bequests to certain minor children (TRA 1976, § 2007) (Small/Smith—TLC-O'Laughlin).	LR—In LR for prep of notice.....	2
§§ 2518, 2045, 2041(a)(2), 2055(a), 2056, 2504(b). LR-213-76.....	Est. & Gift Taxes—Parts 20 & 25—Disclaimers (TRA 1976, § 2009(b)) (RA 1978, § 702(m)) (Kusma/Smith—TLC-O'Laughlin).	LR—In LR for prep of notice.....	2
§ 2601. LR-2-77.....	Inc. Tax—Tax on certain generation-skipping transfers—Part 26—Effective date (TRA 1976, § 2006(c)) (Grundeman/Smith—TLC-Gutman).	LR—12/22/78 Notice pub. Hearing to be held.....	1

Part I—Regulations Under Development by the Legislation and Regulations Division—Continued

1954 code section and file No.	Subject and drafter and reviewer	Office in which pending and status	Priority
§§ 2601-2603. LR-178-76.....	Tax on certain generation-skipping transfers—Part 26—Imposition & amount of, and liability for, tax (TRA 1976, § 2006(a)) (Waltuch/Smith—TLC-O'Laughlin).	LR—In LR for prep of notice	3
§§ 2611-2614. LR-205-76.....	Inc. Tax—Part 26—Tax on certain generation-skipping transfers—Definitions and special rules (TRA 1976, § 2006(a)) (Waltuch/Smith—TLC-O'Laughlin).	TLC—6/5/78 Draft of notice to TLC	3
§§ 2621, 2622, 2013(g), 691(c), 303(d). LR-202-76.....	Inc. Tax—Est. Tax—Tax on certain generation-skipping transfers—Parts 1, 20 & 26—Misc. provisions relating to generation-skipping transfers (TRA 1976, § 2006 (a), (b)) (Waltuch/Smith—TLC-O'Laughlin).	TLC & T.I.—5/8/78 Draft of notice to TLC & T.I.	3
§§ 2621(c)(1), 2611. LR-197-76.....	Proc. & Admin.—Part 404—Temp. Regs.—Generation-skipping transfer tax return requirements, etc. (TRA 1976, § 2006(a)) (Waltuch/Smith—TLC-O'Laughlin).	TLC—5/8/78 Draft of T.D. to TLC & T.I. 9/19/78 Comments from T.I.	1
§§ 3121(b)(20), 1402(c)(2)(F), 3401(a)(17), 6050A. LR-279-76.....	Empl. Tax—Part 31—Proc. & Admin.—Part 301—Withholding of Federal taxes on certain individuals engaged in fishing (TRA 1976, § 1207(a)) (MacMaster/Coulter).	LR—In LR for prep of notice	2
§ 3121(k). LR-59-77.....	Empl. Tax—Part 31—Waiver of exemption from soc. sec. tax by tax exempt organizations (Marcinko/Bromell—TLC-Galm).	TLC & T.I.—5/12/77 Notice pub. 2/23/79 Rev. notice fwd. for formal approval	1
§ 3121(s). LR-36-78.....	Empl. Tax—Part 31—Employees of members of related groups of corps. (Soc. Sec. Amdmts. of 1977, § 314) (Murphy/Bromell—TLC-Shakow).	LR—12/13/78 Notice pub. 4/5/79 Hrg. to be held	2
§ 3121(t). LR-35-78.....	Empl. Tax—Part 31—Soc. sec. tax on employers of individuals who receive income from tips (§ 315, Soc. Sec. Amdmts. of 1977) (Murphy/Bromell—TLC-Goodman).	TLC & T.I.—12/8/78 Draft of notice to TLC & T.I.	2
§ 3231(e). LR-16-77.....	Empl. Tax—Part 31—Exclusion of sick pay from compensation subject to railroad retirement taxes (P.L. 94-547) (Marcinko/Coulter—TLC-Goodman).	Treas.—9/1/78 Notice pub. 2/14/79 T.D. to Treas. for formal approval	2
§ 3401(a)(18). LR-212-78.....	Empl. Tax—Part 31—Remuneration with respect to which a deduction may be allowable for certain expenses of living abroad (Foreign Earned Income Act of 1978, §§ 207(A), 209 (b)) (Dean/Saverude).	LR—1/4/79 Notice pub.	
§ 3401(a)-1, (b). LR-74-77.....	Empl. Tax—Part 31—To modify requirements with respect to sick pay (TRA 1976, § 505) (Marcinko/Coulter—TLC-Cohen).	LR—Notice ret'd. to LR for revision	2
§ 3402. LR-24-79.....	Empl. Tax—Part 31—Federal collection & administration of qualified State individual income taxes; Income tax collected at source (Mantle/Dickinson).	Treas.—2/26/79 T.D. to Treas. for formal approval	
§ 3402. LR-81-78.....	Empl. Tax—Part 31—Submission of withholding exemption certificates (Mantle/Saverude—TLC-Roche).	LR—In LR for prep of notice	2
§ 3402(a). LR-35-76.....	Empl. Tax—Part 31—Extension of temp. reduction of withholding of income tax at source (§ 5, P.L. 94-164; § 5(a)(1), P.L. 94-331; § 2(a)(1), P.L. 94-396; § 3(a)(1), P.L. 94-414; § 401(d)(1), (e), P.L. 94-455) (Thompson/Coulter—TLC-Roche).	LR—In LR for prep of notice	2
§ 3402(q). LR-264-76.....	Empl. Tax—Part 31—Withholding on certain gambling winnings (TRA 1976, § 1207(d)) (MacMaster/Coulter—TLC-Ferguson).	LR—In LR for prep of notice	2
§ 3506. LR-37-78.....	Empl. Tax—Part 31—Companion sitting placement services (§ 10, Act of Nov. 12, 1977, P.L. 95-171) (Cubeta/Bromell—TLC-Roche).	Treas.—12/11/78 Notice to Treas. for formal approval	2
§ 3507. LR-31-79.....	Empl. Tax—Part 38—Temp. Regs.—Advance payments of earned income credit (RA 1978, § 105(b)) (Murphy/Saverude).	LR—In LR for prep of T.D.	
§§ 4041, 4042, 4054, 4058. LR-2118.....	Exc. Tax—Applicable to articles sold on or after 7/1/65 (P.L. 89-44) (Hartley/Saverude—TLC-Copeland).	LR—Notice ret'd. to LR for revision	3
§§ 4061-4063. LR-2119.....	Exc. Tax—Applicable to motor vehicles sold on or after 7/1/65 (P.L. 89-44) (Small/Saverude—TLC-Copeland).	LR—Notice ret'd. to LR for revision	3
§§ 4071-4073. LR-2114.....	Exc. Tax—Applicable to tires, etc., sold on or after 7/1/65 (P.L. 89-44) (Coplan/Saverude—TLC-Copeland).	LR—Notice ret'd. to LR for revision	3
§§ 4081-4084, 4091-4092, 4101, 4102. LR-2117.....	Exc. Tax—Applicable to gasoline & lubricating oil sold on or after 7/1/65 (P.L. 89-44) (Hartley/Saverude—TLC-Copeland).	LR—Notice ret'd. to LR for revision	
§§ 4216, 4219, 4221-4227. LR-2113.....	Exc. Tax—As amended by Exc. Tax Reduction Act of 1965 & other legislation subsequent thereto—thru Rev. Act of 1971—Applicable to articles sold on or after 7/1/65 (Coplan/Saverude—TLC-Copeland).	LR—In LR for prep of notice	3
§ 4216(b). LR-14-78.....	Mfgs. & Rtrrs. Exc. Tax—Constructive sale price as amended by Exc. Tax Tech. Changes Act of 1958 & other legislation (Small/Smith—TLC-Copeland).	TLC & T.—11/3/78 Notice pub. under LR-91-76. 4/22/77 Hrg. held. 1/10/79 T.D. fwd. for formal approval	2
4218(a), 4121, 4221(a), 4293, 6416. LR-61-78.....	Mfgs. & Rtrrs. Exc. Tax—Part 48—Excise tax on coal (Black Lung Benefits Rev. Act of 1978, § 2) (Waltuch/Smith—TLC-Copeland).	TLC & T.FP—11/29/78 Draft of notice to TLC & T.FP	2

Part I—Regulations Under Development by the Legislation and Regulations Division—Continued

1954 code section and file No.	Subject and drafter and reviewer	Office in which pending and status	Priority
§§ 6001-6427, 4161, 4181. LR-2115.	Exc. Tax—Part 52—Regs. on sporting goods & firearms & admin. provs. of special application to Mfrs 7 Retirs. Exc. Tax (Exc. Tax Reduction Act of 1965 & other subsequent legislation through Rev. Act 1971) (Kusma/Saverude—TLC-Cope-land).	TLC—5/2/75 Rev. draft of notice to TLC & T.I. 7/15/76 Comments from T.I.	3
§ 6012(a)(2). LR-24-76	Inc. Tax—Part 1—Requirement of filing certain documents in connection with income & estate tax returns (Waltuch/Smith—TLC-Gutman).	Commr.—6/30/78 Notice pub. 2/28/79 T.D. to Commr for formal approval	3
§§ 6013 (g), (h), 6401(b), 879, 6073(a). LR-244-76.	Inc. Tax—Part 1—Income tax treatment of nonresident alien individuals who are married to citizens or residents of the U.S. (TRA 1976, § 1012; RA 1978, § 701(u) (15) & (16)) (Klein/Felton—ITC-Holberton).	ITC—7/14/78 Notice pub. 1/26/79 Draft of T.D. to ITC & T.C. 2/26/79 Comments from T.C.	2
§§ 6039A, 6694, LR-195-76	Inc. Tax—Part 1—Proc. & Admin. Part 301—Information regarding carryover property acquired from a decedent (TRA 1976, § 2005(d)) (Waltuch/Smith—TLC-Sorensen).	LR—In LR for prep of notice	2
§ 6049. LR-97-77	Inc. Tax—Part 1—Time for filing information returns (Alexander/Fischer—TLC-Drupkin).	LR—2/20/79 Notice pub.	3
§ 6091. LR-121-78	Inc. Tax—Part 1—Filing of wagering tax returns (Alexander/Fischer—TLC-Schuldinger).	TLC & T.—11/28/78 T.D. fwd. for formal approval. 1/26/79 Changed pages to TLC	2
§ 6103 (a), (c) (i)(I), (k)(6), (e) (2) & (m). LR-140-77.	Proc. & Admin.—Part 301—Disclosure of return information by IRS officers & employees for investigative purposes (TRA 1976, § 1202 (a)) (Dickinson—TLC-Flynn).	Tech—1/19/79 Notice recirculated for formal approval	2
§§ 6154, 6655. LR-140-78	Inc. Tax—Part 1—Payment of estimated tax by corporations (Schreiner/Mantle).	LR—In LR for prep of notice	2
§§ 6166, 6166A. LR-210-76	Exc. Tax—Part 20—Proc. & Admin.—Part 301—Deferral and installment payment of estate tax (TRA 1976, § 2004 (a) (RA 1978, § 512) (Hartley/Smith—TLC-O'Laughlin).	LR—In LR for prep of notice	2
§ 6213 (b). LR-146-76	Proc. & Admin.—Part 301—Assessments in case of mathematical or clerical error (TRA 1969, § 1206) (Alexander/Fischer).	LR—In LR for prep of notice	3
§ 6302. LR-10-79	Empl. Tax—Part 31—To change the deposit requirement for withheld income & FICA taxes (Tolleris/Coulter).	TLC & T.I.—2/14/79 Draft of notice to TLC & T.I.	2
§§ 6324A, 2204(c). LR-209-76	Est. Tax—Proc. & Admin.—Parts 20 & 301—Special lien for estate tax deferred under sec. 6166 or 6166A (TRA 1976, § 2004 (d)) (Small/Smith—TLC-O'Laughlin).	LR—In LR for prep of notice	2
§ 6324 (B). LR-201-76	Est. Tax—Proc. & Admin.—Parts 20 & 301—Special lien for additional estate tax attributable to farm, etc., valuation (TRA 1976, § 2003 (b)) (Small/Smith—TLC-O'Laughlin).	LR—In LR for prep of notice	2
§§ 6332, 7401. LR-1891	Proc. & Admin.—Part 301—Enforcement of liens & levies upon a taxpayer's property held by a foreign office of a financial institution engaged in business in the U.S. or a possession of the U.S. (Coplan/Smith—ITC-Kau).	ITC—5/16/72 Draft of notice to ITC	3
§§ 6334 (a)(8), (9), (d), 6331 (b), (c), 6332(c). LR-189-76.	Proc. & Admin.—Part 301—Minimum exemption from levy for wages, etc., & continuing levy on salary and wages (TRA 1976, § 1209) (Kusma/Smith—TLC-Galm).	LR—6/24/78 Notice pub. In LR for prep of final draft of T.D.	2
§§ 6420, 6427. LR-15-79	Exc. Tax—Part 140—Temp. Regs.—Refunds to be made to aerial applicators in certain cases (P.L. 95-458, § 3) (Hartley/Smith).	LR—In LR for prep of T.D.	3
§§ 6601 (j), 6161 (a), (b), 6163 (b), 6503(d), 7403 (a), 2011 (c)(2), 2204 (a), (b). LR-198-76.	Est. Tax—Proc. & Admin.—Parts 20 & 301—Misc. Procedural amendments relating to estate tax (TRA 1976, § 2004 (b), (c) (i); RA 1976, § 702 (p)) (Kusma/Smith).	LR—In LR for prep of notice	3
§ 6696. LR-198-77	Inc. Tax—Part 1—Filing of claims for refund for penalties assessed against income tax return preparers (TRA 1976, § 1203) (Yecies/Saverude—TLC-Flynn).	LR—1/4/79 Notice pub.	3
§ 7216. LR-121-74	Inc. Tax—Part 1—To provide that the penalty under sec. 7216(a) shall not apply in the case of certain conflicts of interest (Dolan/Saverude—TLC-Flynn).	LR—12/12/74 Notice pub.	2
§ 7502. LR-1406	Proc. & Admin.—Part 301—Amendment of regs. relating to the timely mailing of deposits (P.L. 90-364, § 106) (Lanning/Fischer—TLC-Drupkin).	LR—1/18/79 Ret'd. to LR for prep. of final draft of notice	3
§§ 7517, 2031(c), 2616(c), 6075(b). LR-215-76.	Est. Tax—Gift Tax—Proc. & Admin.—Parts 20, 25, 301—Furnishing on request of statement explaining estate or gift valuation and filing of gift tax returns (TRA 1976, § 2008(a), (b)) (Waltuch/Smith—TLC-O'Laughlin).	LR—In LR for prep of notice	3
§§ 7609, 7610. LR-164-76	Proc. & Admin.—Part 301—Administrative summons (TRA 1976, § 1205) (Rood/Fischer—TLC-Drupkin).	LR—6/9/78 Notice ret'd to LR for revision	3
§ 7701(a) (19), (32). LR-1653	Proc. & Admin.—Part 301—Definition of domestic building & loan assoc. (TRA 1969, § 432 (Dean/Coulter).	TLC—11/10/70 Notice pub. 1/30/79 Draft of T.D. to TLC & T.C. 2/16/79 Comments from T.C.	3
LR-149-75	Inc. Tax—Part 3—Maritime Capital Construction Fund (P.L. 91-469, § 601, Merchant Marine Act, 1936) (Klein/Felton—TLC-Sims).	LR—1/29/76 Notice pub. 7/7/76 Hrg. held In LR for prep of T.D.	2
LR-285-74	Treatment of taxation of currency, gains and losses (Horowitz/Felton—ITC-Langbein).	LR—In LR for prep of notice	2

Part I—Regulations Under Development by the Legislation and Regulations Division—Continued

1954 code section and file No.	Subject and drafter and reviewer	Office in which pending and status	Priority
LR-71-78	Temp. Exc. Tax—Parts 16 & 17—(1939 Code) Vinson Act—Amdt. of T.D. 4906 & T.D. 4909—Recovery of excessive profits on Government contracts (Hartley/Smith—TLC-Brown).	TLC—9/7/78 Draft of T.D. to TLC & T.C. 10/6/78 Comments from T.C.	2
LR-16-79	Exc. Tax—Part 138—Temp. Regs.—Limitation on eligibility for credits or refunds by manufacturers, producers, or importers for floor stock refunds and consumer purchases (Energy Tax Act 1978, § 231(b)(2) & (c)(2)(A)) (Waltuch/Smith).	LR—In LR for prep of T.D.	

Part II—Regulations Under Development by the Employee Plans and Exempt Organizations Division

1954 code section and file number	Subject and drafter and reviewer	Office in which pending and status	Priority
§ 46, EE-1-78	Inc. Tax—Part 1—Employee stock ownership plan requirements for obtaining up to additional 1/4% investment credit (TRA 1976, § 803(d)) (Horowitz/Marget—TLC-Melton).	EE—4/10/78 draft of T.D. to TLC, E. 2/27/79 Comments fm TLC & E.	1
§§ 46, 401(a), EE-4-78	Inc. Tax—Part 1—Misc. provisions relating to employee stock ownership plans (TRA 1976, § 803(b)(2), (3), (c) & (d)) (Horowitz/Thrasher—TLC-Melton).	EE—1/19/79 Notice pub.	1
§§ 120, 501(c) (20), EE-5-78	Inc. Tax—Part 1—Prepaid legal expenses (TRA 1976, 2134) (Johnson/McGovern—TLC-Sorensen).	TLC—6/22/78 Draft of notice to TLC & EO. 7/24/78 Comments rec'd from EO.	2
§ 120(c)(4), EE-34-78	Inc. Tax—Part 1—Notification to Secretary that a plan is applying for recognition as a qualified group legal services plan (TRA 1976, § 2134) (Johnson/McGovern—TLC-Sorensen).	TLC—7/14/78 Notice pub. 10/13/78 Prelim Draft of prop. T.D. forwarded for informal approval to TLC & EO. 10/13/78 Comments rec'd from EO.	1
§§ 127, 3121(a)(18), 3401(a)(18), 3306(b)(13), EE-178-78	Inc. Tax—Part 1—Educational Assistance Programs (Rev. Act of 1978 § 164) (Kerby/McGovern).	EE—In EE for prep of notice.	2
§§ 219, 220, 408, 409, 4973, 4974, EE-7-78	Inc. Tax—Part 1—Retirement Income Plan Excise Taxes—Part 54, Retirement accounts for certain married individuals and Individual Retirement Account Technical Changes (TRA 1976, §§ 1501, 1503, Rev. Act 1978, §§ 156, 157) (Gibbs/Wickersham—TLC-Sorensen).	EE—In EE for prep of notice.	2
§§ 401(a), 501(a), EE-39-78	Inc. Tax—Part 1—Treatment of Puerto Rican income retirement plans (P.L. 93-406, § 1022(i)) (Sumter/Thrasher—ITC-Langbein).	EE—11/1/78 Notice ret'd to EE for revision by ITC.	1
§ 401(a)(5), EE-8-78	Inc. Tax—Part 1—Comparability of plans for vesting (ERISA, § 1012(b)) (Hennessy/Wickersham—TLC-Melton).	TLC—11/22/78 Draft of notice to TLC & E. 2/7/79 Comments rec'd from E.	3
§§ 401(a)(12), 414(f), EE-9-78	Inc. Tax—Part 1—Special rules with respect to mergers & consolidations (ERISA, §§ 1021(b), 1041 (in part)) (Misher/Marget—TLC-Sorensen).	TLC—7/1/77 Notice pub. 9/30/77 Hrg. held. 12/27/78 Prelim draft of T.D. to TLC & E. 2/6/79 Comments rec'd from E.	2
§§ 401(a)(17), (d)(5), (d)(8), 46(a)(3), 50A(a)(3), 72(m), 401(e), 404(a)(9), (a)(10), 901(a), EE-10-78	Inc. Tax—Part 1—H.R. 10 plan limitations & premature distributions (P.L. 93-406, §§ 1022(b), 2001(a), (b), (c)) (Maldonado/Wickersham—TLC-Sorensen).	TLC & E—4/21/75 Notice pub. 1/31/79 Prelim. draft of T.D. to TLC & E.	3
§ 401(a)(18), (j), EE-29-78	Inc. Tax—Part 1—Defined benefit plans for H.R. 10 & Subch. S corps. (P.L. 93-406, § 2001(d)) (Hennessy/Wickersham—TLC-Sorensen).	EE—5/26/78 Notice pub. 10/4/78 Hearing held in EE for prep of T.D.	1
§ 401-4(c), EE-11-78	Inc. Tax—Part 1—To conform the "High 25 employee rule" to sec. 4022 of ERISA, "guaranteed benefits" (Schlinkert/Wickersham—TLC-Sorensen).	TLC—11/30/77 Rev. draft of notice to TLC & E. 12/16/77 Appvd. by EP/T.	2
§ 401(d), EE-12-78	Inc. Tax—Part 1—Trusts benefiting owner-employee (P.L. 93-406, § 1022 (c), (f)) (Baker/McGovern—TLC-Sorensen).	Treas.—10/16/75 Notice pub. 2/16/79 T.D. signed by Commr.	2
§§ 402(a)(2), 403(a)(2)(A)(iii), EE-14-78	Inc. Tax—Part 1—Treatment of certain lump sum distributions (P.L. 93-406, § 2005) (Johnson/Wickersham—TLC-Sorensen).	TLC & E—4/30/75 Notice pub. 8/12/75 Hrg. held. 11/23/77. Rev. draft of T.D. to TLC & E.	2
§§ 402(a)(5), (6), (7), 401(a) (20), 403(a)(4), (a)(5), (b)(1), (b)(8), 404(a)(2), 805(d)(1)(c), EE-15-78	Inc. Tax—Part 1—Tax-free rollovers of lump sum distributions and plan termination payments. (P.L. 94-267; P.L. 95-458, § 4; Rev. Act '78, §§ 156(a), (b), 157(f), (g), (h) (i)) (Johnson/Wickersham—TLC-Sorensen).	EE—2/8/78 Draft of notice to TLC & E. 2/1/79 in EE for revision to reflect 1978 amendments.	2
§ 402(e)(4)(L), EE-16-78	Inc. Tax—Part 1—Lump sum distributions from qualified pension, etc. plans (TRA 1976, § 1512) (Johnson/Wickersham—TLC-Sorensen).	E—1/17/78 Draft of notice to TLC & E. 6/26/78 Comments rec'd from TLC.	3
§ 403(b)(7), EE-17-78	Inc. Tax—Part 1—Taxability of beneficiary under annuity purchased by sec. 501(c) organization or public school (P.L. 93-406, § 1022 (e); TRA 1976, § 1504) (Hartley/Thrasher—TLC-Melton).	TLC & EP—2/10/78 Notice pub. 2/13/79 Prelim. draft of partial rev. notice to TLC & EP.	2
§§ 404(a)(1), (3)(A), (6), (7)(g), 413(b)(7), (c)(6), EE-33-78	Inc. Tax—Part 1—Deduction limitation (P.L. 93-406, §§ 1014, 1013(c)(1), (2), (3), 204(b), 4081(a)); TRA 1975 (P.L. 94-12) § 402 amending 1964 Code § 404(a)(6) (Rogan/Marget—TLC-Sorensen).	EE—5/19/78 Notice pub. In EE for prep of T.D.	2
§ 404(c), EE-31-78	Inc. Tax—Part 1—Rules for certain negotiated plans (P.L. 93-406, § 2007) (Sumter/Thrasher).	EE—In EE for prep of notice.	3
§§ 408, 409, 219, 4973, 4974, 62, EE-18-78	Inc. Tax—Part 1—Individual retirement accounts, annuities, & retirement bonds (P.L. 93-406, § 2002) (Gibbs/Wickersham—TLC-Sorensen).	EE—2/21/75 Notice pub. 11/19/75 Supplemental notice pub. 2/6/79 Partial rev. notice approved by Treas. 2/16/79 Rev. prelim. draft of T.D. to TLC & E.	2

Part II—Regulations Under Development by the Employee Plans and Exempt Organizations Division—Continued

1954 code section and file number	Subject and drafter and reviewer	Office in which pending and status	Priority
§§ 408(j), 6693, etc. EE-19-78	Inc. Tax—Part 1—Reporting requirements, penalties & conforming amends, re individual retirement accounts (ERISA, §§ 2002(f), (g) (exc. g)(5)) (Maldonado/Wickersham).	EE—In EE for prep of notice	3
§ 410. EE-20-78	Inc. Tax—Part 1—Coverage & eligibility rules for minimum participation standards (ERISA, § 1011) (Wickersham—TLC-Sorensen).	Treas.—11/28/78 Notice signed by Commr	1
§ 411, 410. EE-4-79	Inc. Tax—Part 1—Elapsed time rules for minimum vesting and participation requirements. (ERISA, § 1012(a), 1011) (Maldonado/Wickersham).	EE—12/28/76 Notice Pub. by Dept. of Labor. In EE for prep of T.D.	2
§ 411(d)(1). EE-164-78	Inc. Tax—Part 1—Coordination of vesting and non-discrimination requirements for qualified plans (ERISA § 1012(a)) (Maldonado/Wickersham).	EE—In EE for prep of notice	2
§ 412. EE-32-78	Inc. Tax—Part 1—Alternative amortization method of funding (P.L. 93-406, § 1013(d)) (Greenblatt/Marget—TLC-Sorensen).	EE—In EE for prep. notice	1
§ 412(b)(3). EE-101-78	Inc. Tax—Part 1—Credits to funding standard account (ERISA, § 1013(a)) (Rogan/Marget—TLC-Sorensen).	EE—12/29/78 Notice pub	1
§§ 412, 413(b), (5), (c)(4). EE-99-78	Inc. Tax—Part 1—Funding for qualified plans (ERISA, §§ 1013(a) (1014)) (Rogan/Marget—TLC-Sorensen).	EE—In EE for prep. of notice	1
§ 412(c)(1). EE-100-78	Inc. Tax—Part 1—Determinations to be made under funding method (ERISA, § 1013(a)) (Rogan/Marget—TLC-Sorensen).	EE—8/4/77 Notice pub. In EE for prep. of T.D.	1
§ 412(c)(2). EE-102-78	Inc. Tax—Part 1—General rules for valuation of assets (ERISA, § 1013(a)) (Rogan/Marget—TLC-Sorensen).	EE—8/25/78 Notice pub. 1/11/79 Hearing held. In EE for prep. of T.D.	1
§ 412(c)(3). EE-150-78	Inc. Tax—Part 1—Reasonable actuarial methods (ERISA, § 1013(a), 3 (31)) (Rogan/Marget—TLC-Sorensen).	TLC—2/6/79 Rev. draft of notice to TLC & E for informal approval. 2/13/79. Comments rec'd from E.	2
§ 412(i). EE-21-78	Inc. Tax—Part 1—Treatment of certain individual & group insurance contract plans under minimum funding standards (P.L. 93-406, § 1013(a)) (Wickersham—TLC-Sorensen).	TLC & E—2/6/75 Notice pub. 5/1/75 Draft of T.D. to TLC & E.	2
§ 413 (a), (b), (b)(2), (b)(3), (b)(8), (c), & (c)(2). EE-30-78	Inc. Tax—Part 1—Discrimination & employees of labor unions, collectively bargained plans, exclusive benefit, & plans maintained by more than one employer (P.L. 93-406, § 1014) (Cobb/Wickersham—TLC-Melton).	EE—8/29/78 Notice pub. 1/18/79 Hrg Held. In EE for prep. of T.D.	2
§ 414(a). EE-22-78	Inc. Tax—Part 1—Definitions and special rules; Service for predecessor (P.L. 93-406, § 1015) (Misher/Wickersham).	EE—In EE for prep. of notice	2
§ 414(g). EE-41-78	Inc. Tax—Part 1—Definitions and special rules relating to plan administrators (ERISA, § 1015) (Johnson/McGovern—TLC-Sorensen).	Treas—9/18/75 Notice pub. under LR-173-74. 11/21/78 T.D. signed by Commr.	2
§ 414(k)(2). EE-23-78	Inc. Tax—Part 1—Rules relating to certain plans (P.L. 93-406, § 1015) (Glass/Thrasher).	EE—In EE for prep. of notice	2
§ 415. EE-24-78	Inc. Tax—Part 1—Limitation on contribution and benefits (P.L. 93-406, § 2004) (Misher/Wickersham—TLC-Sorensen).	EE—11/1/78 Draft of notice in EE for revision	1
§ 457. EE-176-78	Inc. Tax—Part 1—Deferred compensation plans of State and Local Governments (Rev. Act. '78, § 131) (Kamikawa/McGovern).	EE—In EE for prep. of notice	2
§ 501(c)(3). EE-42-78	Inc. Tax—Part 1—Exemption from tax of certain charitable, etc., orgs. (Sumter/Thrasher—TLC-Sims).	CC	3
§ 501(c)(7) & (g). EE-43-78	Inc. Tax—Part 1—Tax treatment of certain social clubs & prohibition of discrimination by certain social clubs (P.L. 94-568) (Sumter/Thrasher).	EE—In EE for prep. of notice	2
§ 501(c)(9). EE-153-78	Inc. Tax—Part 1—Voluntary employees' beneficiary associations (as amended by sec. 121(b)(5)(a) TRA 1969) (Greenblatt/Thrasher—TLC-Sims).	TLC—1/23/69 Notice pub. 4/1/69 Hrg. held. 10/26/77 Draft of rev. notice to TLC & EO. 11/77 Comments from EO.	1
§ 501(c)(12). EE-145-78	Taxation of Mutual or Cooperative Telephone Companies (P.L. 95-345, § 1) (Kamikawa/McGovern—TLC-Sims).	E—2/16/79 Notice fwd. for formal approval	3
§ 501(c)(13), (c)(2). EE-171-78	Inc. Tax—Part 1—Exempt cemetery corporations and exempt crematoria—Exempt title holding corporations (P.L. 91-618) (Beker/Thrasher—TLC-Sims).	EE—7/8/75 Notice pub. 11/29/78 Rev. notice pub. 3/29/79 Hrg. to be held	3
§ 501(c)(21), 4951, 4952. EE-170-78	Inc. Tax—Part 1—Excise Tax—Part 53—Black Lung benefits trusts (§ 4(a), (c), Black Lung Benefits Revenue Act of 1977) (Baker/Marget—TLC-Copeland).	EE—11/29/78 Notice pub. In EE for prep of T.D.	1
§ 501(e). EE-44-78	Inc. Tax—Part 1—Amdt. of regs. to reflect the grant of tax exempt status to certain Hospital Service Orgs. (P.L. 90-364, § 109) (Beker/Thrasher—TLC-Sims).	TLC—8/31/78 Prelim. draft of notice to TLC & EPEO. 10/6/78 Comments rec'd from EPEO.	3
§ 501(h), 504, 4911, 170(f). EE-154-78	Inc. Tax—Part 1—Lobbying by public charities (TRA 1976, § 1307(a),(b)) (Baker/McGovern—TLC-Sims).	EE—In EE for prep of rev. draft of notice	1
§ 509(a)(2). EE-45-78	Inc. Tax—Part 1—Definition of a private foundation (P.L. 94-81, § 3) (Sumter/Thrasher—TLC-Galm).	EE—4/23/76 Draft of notice approved by EO. 7/14/78 Comments rec'd on draft of notice from TLC.	3
§§ 512, 514, 851, 494. EE-146-78	Inc. Tax—Part 1—Excise Tax—Part 53, Treatment of income from payments with respect to securities loans (P.L. 95-345, § 2) (Kerby/McGovern).	EE—In EE for prep of notice	3
§ 512(b)(5). EE-172-78	Inc. Tax—Part 1—Tax Treatment of certain option income of exempt organizations (P.L. 94-396, § 1) (Glass/Thrasher—TLC-Sims).	E—11/29/78 Notice pub. 2/13/79 Prelim. draft of T.C. to TLC & E. 2/22/79 Comments rec'd from TLC.	3

Part II—Regulations Under Development by the Employee Plans and Exempt Organizations Division—Continued

1954 code section and file number	Subject and drafter and reviewer	Office in which pending and status	Priority
§ 513(d). EE-155-78	Inc. Tax—Part 1—Activities of trade shows and state fairs (TRA 1976 § 1305) (Horowitz/Thrasher—TLC-Sims).	TLC & EEO—8/30/78 Draft of notice to TLC & EEO	1
§ 513(e). EE-46-78	Inc. Tax—Part 1—Hospital services not to constitute an unrelated trade or business (TRA 1976, § 1311) (Kerby/McGovern—TLC-Sims).	TLC & EO—2/26/79 Draft of notice to TLC & EO	2
§ 513(f), 527(c)(3)(d). EE-180-78	Inc. Tax—Part 1—Proceeds from bingo games (P.L. 95-502, § 301) (Kerby/McGovern).	EE—In EE for prep of notice	3
§§ 1379, 62. EE-35-78	Inc. Tax—Part 1—Qualified pension etc. plans of small business corps. (§ 531, TRA 1969) (Stein/McGovern—TLC-Sorensen).	EE—5/6/72 Notice pub. 7/24/72 Conference held in EE for prep of T.D.	3
§§ 2039(c), (e), 2517. EE-25-78	Est. & Gift Tax—Parts 20 & 25—Exclusion of certain retirement benefits from gross estate (TRA 1976, § 2009(c), Rev. Act 1978, § 142) (Johnson/Wickersham—TLC-Sorensen).	EE—2/26/79 Notice signed by Commr	3
§ 4940. EE-177-78	Foundation Excise Tax—Part 53—Reduction of administration tax on private foundation (Rev. Act of 1978 § 520) (Stein/McGovern).	E—2/27/79 T.D. fwd. for formal approval	3
§ 4941. EE-161-78	Foundation Excise Tax—Part 53—Disposition of private property under transition rules of TRA 1969. Extension of self-dealing transition rules for private foundations (TRA of 1976, § 1301, 1309) (Glass/Thrasher—TLC-Galm).	EE—6/30/78 Notice ret'd to LR for revision	3
§ 4942(f)(2). EE-47-78	Foundation Exc. Tax—Part 53—Treatment of imputed interest on contracts made in taxable years beginning before 1/1/70 (TRA 1976, § 1310) (Kerby/McGovern—TLC-Galm).	EE—12/21/78 Notice pub	3
§ 4942(g)(2). EE-156-78	Foundation Excise Tax—Part 53—Private foundation set-asides (TRA 1976 § 1302) (Kerby/McGovern—TLC-O'Laughlin).	TLC—11/4/77 Draft of notice to TLC & EO. 2/1/78 Comments from EO	3
§ 4943. EE-162-78	Foundation Excise Tax—Part 53, Taxes on excess business holdings of private foundations—Effect of reorganizations and corporate distributions (Hennessy/Wickersham—TLC-Galm).	TLC—6/20/78 Draft of notice to TLC & EEO. 7/31/78 Comments from EEO	2
§§ 4971, 275(a)(6), 413 (b)(6), (c)(5). EE-36-78	Inc. Tax—Part 1—Exc. Tax—Part 54—Funding; Collectively bargained plans; excise tax & related conforming amdmnts. (P.L. 93-406, §§ 1013(b), 1014, 1016(a)(1)) (Rogan/Marget).	EE—In EE for prep of notice	1
§§ 4972, 401(a)(10)(A)(ii), 401 (c)(2), (d)(3), (d)(4), 1379(b). EE-37-78	Inc. Tax—Part 1—Exc. Tax—Part 54—H.R. 10 plans, excess contributions and premature distributions (P.L. 93-406, §§ 1022(b), 2001(b), (e), (f), (h), (i)) (Maldonado/Wickersham—TLC-Sorensen).	TLC 2/21/79 Notice approved by E	2
§§ 6059, 6692. EE-27-78	Proc. & Admin.—Part 301—Periodic report of actuaries; and failure to file actuarial report (P.L. 93-406, § 1033) (Johnson/McGovern—TLC-Sorensen).	TLC & E—12/6/78 Draft of notice to TLC & E	3
§ 6104. EE-160-78	Proc. & Admin.—Part 301—Procedures used for making returns filed by exempt organizations available for public inspection (Hennessy/Wickersham—TLC-Sims).	EE—In EE for prep of T.D.	3
§ 6104(a). EE-28-78	Proc. & Admin.—Part 301—Inspection of certain information with respect to pensions, profit-sharing, & stock bonus plans (P.L. 93-406, § 1022 (g)) (Johnson/McGovern—TLC-Sorensen).	TLC—8/2/77 Rev. draft of notice to TLC & E. 8/31/77 Comments from E	2
§ 6211. EE-159-78	Proc. & Admin.—Part 301—Deficiency procedures, etc. relating to excise taxes imposed by Chapters 42 and 43 (Schlinkert/Wickersham—TLC-O'Laughlin).	EE—1/17/77 Notice ret'd to LR by Treas. for inclusion of 1976 Act	3

Part III—Regulation projects under which existing regulations are to be reviewed pursuant to paragraph 12 of Treasury Directive 50-04.F

1954 code section and file No.	Subject and drafter and reviewer	Office in which pending and status	Priority
§§ 3, 4, 144. LR-249-76	Inc. Tax—Part 1—Tax tables for individuals (§§ 206, 301 (b), (c), Rev. Act 1971; § 501, TRA 1976) (Coughlin/Saverude—TLC-Galm).	LR—In LR for prep of notice	2
§§ 11, 21. LR-33-76	Inc. Tax—Part 1—Corporate tax rates & surtax exemptions (Rev. Adj. Act 1975, § 4) (§ 901(a), (e)(2), TRA 1976) (Murphy/Saverude).	LR—In LR for prep of notice	2
§ 37. LR-250-76	Inc. Tax—Part 1—Credit for the elderly (TRA 1976, §§ 503, 1901(c)(1)) (Francis/Bromell—TLC-Flynn).	TLC & T.I.—2/27/79 Draft of notice to TLC & T.I.	2
§§ 104 (a) & (b), 105 (d). LR-159-76	Inc. Tax—Part 1—Changes in exclusions for sick pay & certain military etc., disability pensions; Certain disability income (TRA 1976, § 505; TR&SA, § 301) (Parcell/Fischer—TLC-Flynn).	LR—In LR for prep of notice	2
§ 217 (b) (3), (c)(1). LR-258-76	Inc. Tax—Part 1—Increases in dollar amounts and decrease in mileage test for deductions for moving expenses (TRA 1976, § 506 (a), (b)) (Coughlin/Coulter—TLC-Galm).	TLC & T.I.—11/3/78 Notice pub. 2/8/79 Final draft of TD to TLC & T.I.	2
§ 303. LR-124-76	Inc. Tax—Part 1—Distributions in redemption of stock to pay death taxes (TRA 1976, § 2004 (e)) (Kissel/Blumkin—TLC-Sorensen).	TLC—3/3/77 Draft of notice to TLC & T.C. 5/17/77 Approved by T.C.	2
§§ 368 (a)(2)(F), 721, 722, 723, 683. LR-135-76	Inc. Tax—Part 1—Exchange funds (TRA 1976, § 2131) (Mull/Blumkin—TLC-Galm).	LR—In LR for prep of notice	1

Part III—Regulation projects under which existing regulations are to be reviewed pursuant to paragraph 12 of Treasury Directive 50-04.F—Continued

1954 code section and file No.	Subject and drafter and reviewer	Office in which pending and status	Priority
§§ 512 (a)(3), 501 (c)(7), (9). LR-1744.	Inc. Tax—Part 1—Social clubs—Unrelated business income (TRA 1969, § 121 (b) (1)) (Jacobson/Fischer—TLC-Sims).	TLC & EO—5/13/71 Notice pub. 8/31/71 Hrg. held. 7/25/78 Final draft of T.D. to TLC & EO.	2
§§ 584 (a)(1), (c)(1)(A) & (B), (c)(2), (e), 6032. LR-133-76.	Inc. Tax—Part 1—Tax treatment of common trust funds (P.L.'s 94-414, § 1; 94-455; TRA 1976, §§ 2138 (a), 1402 (b), 1901 (b), 2131 (d)) (Schreiner/Coulter—TLC-Sims).	TLC—3/29/77 Draft of notice to TLC & T.C. 5/31/77 Comments from TC.	2
§§ 856-860, 172 (b), (d), 316 (b), 381 (c)(25), 443 (e)(5), 4981, 6161 (b), 6211-6213 (a), 6214, 6344 (a), 6422, 6503 (i), 6512, 6515, 6601 (c), 6697, 7422. LR-218-76.	Inc. Tax—Part 1—Real Estate Investment Trusts (TRA 1976, §§ 1801-1808, 1901 (a), (b), 1906 (a), (f)) (P.L. 93-625, sec. 6) (Whedbee/Blumkin—TLC-Galm).	LR—7/7/78 Notice pub. 12/20/78 Hrg. held.	2
§§ 902, 78, 960, 535 (b) (1), 545 (b) (1). LR-229-76.	Inc. Tax—Part 1—Dividends from less developed country corps. to be grossed up for purposes of foreign tax credit (TRA 1976, § 1033) (Renfro/Felton—ITC-Kau).	LR—12/29/78 Notice pub.	3
§ 904 (b)(2) & (3). LR-228-76.	Inc. Tax—Part 1—Limitation on, and treatment of, capital gains for purposes of foreign tax credit (TRA 1976, §§ 1031, 1034; RA 1978, §§ 403 (c)(4), 701 (u)(2) & (3) (Klein/Fleton—ITC-Kau).	LR—In LR for prep of notice	2
§ 904 (e). LR-11-77.	Inc. Tax—Part 1—Transitional rules for carrybacks & carryovers of foreign tax credits as a result of repeal of per-country limitation by sec. 1031 (a), TRA 1976 (Dolan/Felton—ITC-Kau).	LR—In LR for prep of notice	2
§ 995. LR-246-76.	Inc. Tax—Part 1—Amendments affecting DISC pertaining to military sales & incremental export gross receipts (TRA 1976, § 1101 (a), (g)(1) & (5)) (Duffy/Fleton—ITC-Langbein).	ITC—11/17/78 Rev. draft of notice to ITC & T.C. 12/29/78 Comments from T.C.	2
§ 1234. LR-274-76.	Inc. Tax—Part 1—Tax treatment of the grantor of options of stock, securities & commodities (TRA 1976, §§ 1236, 1402 (b) (1) (U)) (Marcinko/Coulter—TLC-Galm).	TLC & T.I.—2/15/79 Notice fwd. for formal approval.	2
§ 1250. LR-131-76.	Inc. Tax—Part 1—Recapture of depreciation on real property (TRA 1976, §§ 202, 1901 (b), 1951 (e), 2122 (b), 2124 (a) (Dean/Mantle)).	LR—In LR for prep of notice	3
§ 1348. LR-156-76.	Inc. Tax—Part 1—Maximum tax on personal service income (TRA 1976, § 302) (Lanning/Dickinson—TLC-Galm).	LR—5/10/77 Notice ret'd. to LR for revision.	2
§§ 1491, 1057. LR-236-76.	Inc. Tax—Part 1—Excise tax on transfers of property to foreign persons to avoid the federal income tax (TRA 1976, § 1015) (Duffy/Felton—ITC-Langbein).	ITC—1/31/79 Rev. draft of notice to ITC.	3
§§ 4041, 4042, 4054, 4058. LR-2118.	Exc. Tax—Applicable to articles sold on or after 7/1/65 (P.L. 89-44) (Hartley/Saverude—TLC/Copeland).	LR—Notice ret'd. to LR for revision.	3
§§ 4061-4063. LR-2119.	Exc. Tax—Applicable to motor vehicles sold on or after 7/1/65 (P.L. 89-44) (Small/Saverude—TLC-Copeland).	LR—Notice ret'd. to LR for revision.	3
§§ 4071-4073. LR-2114.	Exc. Tax—Applicable to tires, etc., sold on or after 7/1/65 (P.L. 89-44) (Coplan/Saverude—TLC-Copeland).	LR—Notice ret'd. to LR for revision.	3
§§ 4081-4084, 4091-4092, 4101, 4102. LR-2117.	Exc. Tax—Applicable to gasoline & lubricating oil sold on or after 7/1/65 (P.L. 89-44) (Hartley/Saverude—TLC-Copeland).	LR—Notice ret'd. to LR for revision.	3
§ 6012 (a) (2). LR-24-76.	Inc. Tax—Part 1—Requirement of filing certain documents in connection with income & estate tax returns (Waltuch/Smith—TLC-Gutman).	Commr.—8/30/78 Notice pub. 2/28/79 T.D. to Commr for formal approval.	3
§ 7502. LR-1406.	Proc. & Admin.—Part 301—Amendment of regs. relating to the timely mailing of deposits (P.L. 90-364, § 106) (Lanning-Fischer—TLC-Drapkin).	LR—1/18/79 Ret'd. to LR for prep. of final draft of notice.	3

Table of Abbreviations

Abbreviation	Meaning	EP	Employee Plans Division.	pub	published.
ACTS	Office of Assistant Commissioner (Taxpayer Service and Returns Processing).	ERISA	Employee Retirement Income Security Act.	RA	Revenue Act.
adj	adjustment.	est	estate.	rec'd	Received.
admin	administration.	exc	excise.	reg	regulation.
amdmnt	amendment.	FR	FEDERAL REGISTER.	repub	republished.
appvd	approved.	fwd	forwarded.	ret'd	returned.
C or Comm'r. or Comm	Office of Commissioner.	govt	government.	rtlr	retailer.
CC	Office of Chief Counsel.	hrg	hearing.	rev	revenue, revised, or review (depending on context).
CCJ	Office of Chief Counsel Interpretive Division.	inc.	income.	sec or §	section.
co	company.	ITC	Office of International Tax Counsel (Treasury).	soc. sec	social security.
corp	corporation.	LR	Office of Chief Counsel, Legislation and Regulations Division.	subch	subchapter.
E or EPEO	Office of Assistant Commissioner (Employee Plans and Exempt Organizations).	mtgr	manufacturer.	T or Tech	Office of Assistant Commissioner (Technical).
EE	Office of Chief Counsel, Employee Plans and Exempt Organizations Division.	misc	miscellaneous.	T.C.	Corporation Tax Division.
EO	Exempt Organizations Division.	org	organization.	T.D	Treasury decision.
		perm	permanent.	temp	temporary.
		P.L. or Pub. L.	Public Law.	T.I.	Individual Tax Division.
		P & R	Office of Assistant Commissioner (Planning and Research).	T-FP	Tax Forms and Publications Division.
		prelim	preliminary.	TLC	Office of Tax Legislative Counsel (Treasury).
		prep	preparation.	T/P	taxpayer.
		proc	procedure.	TRA	Tax Reform Act.
		prop	proposed.	Treas	Department of the Treasury.
		prov	provision.	TR & SA	Tax Reduction & Simplification Act.

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Saverude, Charles C.....	566-3394
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Presidential Report Federal

Monday
April 2, 1979

Part III

Department of Health, Education, and Welfare

National Institutes of Health

Proposed Plan for a Program to Assess
the Risks of Recombinant DNA Research

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Recombinant DNA Research; Proposed Plan For a Program to Assess Risks

AGENCY: National Institutes of Health.

ACTION: Notice of proposed plan for a program to assess the risks of recombinant DNA research.

SUMMARY: This notice sets forth a proposed program to assess the risks of recombinant DNA research. Interested parties are invited to submit comments concerning the plan. After consideration of those comments and comments by the NIH Recombinant DNA Advisory Committee, the Director of the National Institutes of Health will publish the final plan in the *Federal Register*.

DATE: Comments must be received by May 2, 1979.

ADDRESS: Written comments and recommendations should be submitted to the Chief, Office of Specialized Research and Facilities, NIAID Building 31, Room 7A04, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Additional information may be obtained from Dr. John Nutter, Chief, Office of Specialized Research and Facilities, NIAID, National Institutes of Health, Bethesda, Maryland 20205 (301-496-5643).

SUPPLEMENTARY INFORMATION:

I. Introduction

With the issuance in December 1978 of revised guidelines for the conduct of recombinant DNA research, the Secretary DHEW requested that the National Institutes of Health (NIH) prepare and NIH Risk Assessment Plan which, after review by the Recombinant DNA Advisory Committee (RAC) and publication in the *Federal Register* for comment, would be made final and updated annually. The present document is the initial response to that request.

The major concerns about recombinant DNA experimentation have included the possible conversion of non-pathogenic microorganisms to pathogenic agents, as well as the establishment of organisms containing recombinant DNA molecules in the

ecosystem. Since the hypothetical risks and technical basis of recombinant DNA research are primarily microbiological in nature, the responsibility for coordination and implementation of the plan was assigned by the Director NIH to the Director, National Institute of Allergy and Infectious Diseases (NIAID).

The vast majority of information relevant to recombinant DNA risk analysis has already come from research not primarily designed to provide information on risk. This will undoubtedly continue to be the case. This information will be obtained chiefly from publications in the scientific literature, from persons with special scientific knowledge, and from ongoing basic biomedical research. Risk assessment analysis will require continuing review of data developed in the fields of microbiology, infectious diseases, and related biological research.

Some essential information has been, and will continue to be, derived from projects specifically designed to assess various aspects of potential risks associated with recombinant DNA experimentation. Such experiments will be supported by the Intramural and the Extramural programs of NIH. Many experiments may also be conducted in the private sector or may be funded by other agencies or governments.

The essential goal of a successful risk assessment plan will be the development of means to collect, collate, coordinate, evaluate, and disseminate data obtained from all sources.

II. Background and Present Program

The revision of the guidelines for recombinant DNA research was developed primarily through the analysis of data generated from basic microbiological research, such as was done at the Falmouth and Ascot Risk Assessment Workshops. An example of such free-ranging research efforts which have generated data relevant to recombinant DNA experimentation was the discovery of the intervening sequences that interrupt genes in eukaryotic DNA. This finding virtually assures that shotgun cloning of eukaryotic chromosomal DNA into prokaryotes will not result in the production of biologically active proteins.

Special experiments have been and will continue to be specifically designed to assess the potential risks associated with recombinant DNA experiments. For example, within the Intramural Program of NIAID two experiments were undertaken to assess potential risks of this new technology. The first was an

evaluation of the infectivity of polyoma DNA when the entire viral genome was cloned in phage and plasmid vectors of *Escherichia coli* K-12. A second experiment was a study of the pathogenicity and stability of shotgun clones of *E. coli* K-12 containing yeast (*Saccharomyces*) DNA. In each case, there was no evidence that the inserted DNA produced any special hazard.

Specific risk assessment experiments have also been undertaken using the NIH contract mechanism. Contracts have been used to (1) assess the potential for generating aerosols in laboratories where recombinant DNA research is conducted and (2) to examine the EK2 systems for their ability to survive and their capacity to transfer heterologous cloned segments to secondary hosts under conditions simulating natural environments.

An important additional source of information is specific DNA risk assessment experiments that have been undertaken in foreign countries. Scientists supported by the European Molecular Biology Organization (EMBO) have also examined the infectivity of recombinant polyoma plasmid and phage DNA in tissue culture. The results of these studies agree with those of biological *in vivo* assays carried out by the Intramural scientist of NIH already described.

III. Recombinant DNA Risk Assessment Plan: Scientific Aspects

There are three major types of host-vector systems presently being used for recombinant DNA research, and the risk assessment program will naturally be focused on these. They are (1) prokaryotic host-vector systems, primarily, *E. coli* and *Bacillus subtilis*; (2) lower eukaryotes, namely, *Saccharomyces cerevisiae* and *Neurospora crassa*; and (3) eukaryotic viruses in cultured cells of higher eukaryotes.

A number of events must occur before a laboratory microorganism becomes a possible risk to people or higher organisms outside the immediate laboratory environment. The assessment of risk involves a determination of the probability for the occurrence of these various events. The particular data that are most susceptible to analysis, or most likely to provide a definitive answer concerning risk, will differ for the various host-vector systems. Data elements will include the probabilities of:

(1) Dispersal of the organism containing recombinant DNA into the environment.

(2) Survival of the organism in the environment or transfer of the recombinant molecule into another organism.

(3) Acquisition of a selective advantage by the recombinant-containing organism so that it can populate a significant ecological niche.

(4) Change in the natural biology of the recombinant-containing organism so that it becomes a danger to some higher organism, as, for example, by its conversion into a pathogen or into a vehicle for transferring foreign DNA into cells of the higher organism.

A major aspect of the risk assessment plan will consist of acquiring and analyzing information and data relevant on these elements for the various host-vector systems.

Prokaryotic Host-Vector Systems

With regard to acquisition of new experimental data, the initial emphasis will be on the *E. coli* K-12 systems, since these are the major systems being used and areas where such data are needed have already been identified. The following areas will be given particular consideration.

(1) The survival in the environment and potential selective advantage of organisms carrying recombinant DNA.

(2) Further evaluation of the transmission of vectors from *E. coli* K-12 to other bacteria in the gastrointestinal tract of animals and human beings.

(3) Testing *E. coli* K-12 host-vector systems carrying recombinant DNA for virulence or increased ability to colonize the gastrointestinal tract of mice.

(4) Animal studies of hormone-producing strains of *E. coli* generated by recombinant DNA technology.

(5) Further evaluation of the biological activity of polyoma virus cloned in *E. coli* host-vector systems.

(6) The biological activity of *E. coli* K-12 clones carrying DNA copies of RNA tumor viruses.

(7) The possible occurrence of autoantibodies or autoreactive cells due to the production of eukaryotic polypeptides by bacteria that colonize higher organisms.

Lower Eukaryotes

Areas where new experimental data would be desirable include (1) determining the competitive advantage for survival of *S. cerevisiae* in relevant natural environments and (2) determining the ability of several types of eukaryotic viruses to replicate in *S. cerevisiae* and *N. crassa* when introduced via a recombinant molecule.

Higher Eukaryotes

The major concern that centers on the use of animal virus vectors to clone foreign DNA segments in cells of higher eukaryotes involves the unlikely possibility of (1) creating novel nondefective viruses as a result of the insertion of a new DNA fragment or (2) altering the host range of the viral vector. The risks associated with these problems will be evaluated continuously through the review of the general viral literature. Only a limited number of experiments are currently being conducted with these systems and it is highly improbable that the events enumerated above would occur. Specific risk assessment experiments are not being planned at present for these systems.

This compilation of research activities is neither final nor inclusive. Furthermore, those mentioned here will require more than a single year to complete. While the present interest emphasizes *E. coli* host-vector systems in animals, in the future the focus may shift to other host-vector combinations and their impact on the ecosystem.

IV. Implementation of Plan

In order to implement the plan, NIAID will:

(1) Recruit and appoint an eminent scientist as a Special Assistant to the Director for Risk Assessment to provide leadership and coordination of all activities concerned with the evaluation of risks of research and research products related to recombinant DNA and other genetic research involving potentially infectious or toxic organisms. In this role, this scientist will be responsible for representing the plan to the Recombinant DNA Advisory Committee (RAC), the scientific community, international organizations, and the public; will advise on the collection and assessment of data and edit and coordinate reports on progress; and will chair workshops and conferences as necessary to address special problems of risk assessment. This individual will also review ongoing research for data pertinent to risk assessment by such means as analysis of data from research which is published or presented at meetings, by direct contacts with scientists, and through review of Memoranda of Understanding and Agreement (MUA) filed with the Office of Recombinant DNA Activities (ORDA). Liaison will be maintained with those who have related responsibilities in other countries and international scientific organizations. The Institute will recruit and appoint

such ancillary staff as are needed by the Special Assistant.

(2) Develop and issue such requests for applications or proposals as are necessary to ensure the conduct of risk assessment research required to answer specific questions or to fill gaps in data being accumulated from other research. It is anticipated that these specific needs will be identified by the activities of the Special Assistant for Risk Assessment, the RAC, and scientists addressing the issues in workshops and conferences.

(3) Prepare and send periodic reports to the RAC identifying questions, problems, and evaluations of scientific information pertinent to their various advisory functions.

(4) Respond to inquiries from scientists, the public, DHEW, or other government agencies regarding available data on risk assessment and evaluation of those data.

In order to carry out these responsibilities, the NIAID will enlist the services of the following existing NIH offices, committees, and people to provide information, to advise and evaluate, and to review, as appropriate, reports for completeness and accuracy.

(1) *Recombinant DNA Advisory Committee (RAC)*—A Risk Assessment Subcommittee has recently been established in the RAC to provide the NIH with broad technical and public policy advice concerning risk assessment. This subcommittee will serve as the focus for RAC advice and interaction with the various program elements.

(2) *Office of Recombinant DNA Activities (ORDA)*—ORDA will maintain a computerized registry of ongoing recombinant DNA research as filed in MUAs. The registry, which will include information on hosts, vectors, sources of inserted DNA, containment levels, etc., will serve as a resource for information on ongoing research which can be reviewed for risk assessment aspects.

(3) *Office of Specialized Research and Facilities (OSRF)*—The OSRF will:

(a) Manage grants and contracts solicited as a result of program efforts.

(b) Serve as a clearinghouse for special facilities, services, and other resources required by the plan.

(c) Organize workshops and conferences as necessary to evaluate research or coordinate these efforts.

(d) Maintain contact for information exchange with international groups conducting or fostering risk assessment work.

(e) Serve as central office for data compilation.

(4) *Intramural Scientists*—A planned Laboratory of Microbial Virulence, NIAID, to be located at Frederick, Maryland, will provide a long-range base for self-initiated risk assessment experiments requiring high containment technology. Intramural scientists in other NIAID and NIH laboratories will also contribute pertinent information and will serve as ad hoc consultants on the various aspects of risk assessment.

(5) *NIH Extramural Program Officers and Executive Secretaries of the Study Sections*—These individuals will serve as a valuable resource because of their familiarity with grants and contracts covering a full range of scientific disciplines supported by NIH which may yield valuable risk assessment information.

Dated: March 20, 1979.

Donald S. Fredrickson, M.D.

Director, National Institutes of Health.

[FR Doc. 79-9642 Filed 3-30-79; 8:45 am]

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Department of
Health, Education,
and Welfare

Monday
April 2, 1979

Part IV
Department of
Health, Education,
and Welfare

Public Health Service

Health Systems Agencies and State
Health Planning and Development
Agencies

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

42 CFR Parts 122, 123

Health Systems Agency and State Health Planning and Development Agency Review of New Institutional Health Services

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

SUMMARY: These rules amend the Public Health Service regulations on health systems agencies (HSAs) with respect to procedures and criteria for review of new institutional health services (NIHS) and on State health planning and development agencies (SHPDAs) with respect to procedures and criteria for certificate of need and other reviews of new institutional health services. The regulations implement a recent amendment to the Public Health Service Act ("the Act") requiring that review criteria used by HSAs and SHPDAs which consider the special needs and circumstances of health maintenance organizations (HMOs) be consistent with the standards and procedures these agencies must follow in reviewing and commenting on applications for financial assistance for HMOs under Title XIII of the Act. These amended regulations are intended to ensure that HSA and SHPDA review criteria are consistent with those standards and procedures as set forth in a Notice of Proposed Rulemaking recently published in the *Federal Register*. These regulations also require consideration by health planning agencies of the health related needs of medically underserved groups and in particular members of groups which have traditionally experienced difficulties in obtaining equal access to health services, such as minorities, women, and the handicapped.

EFFECTIVE DATE: These regulations are effective on April 2, 1979, subject to the discussion set forth under the "Supplementary Information" heading below.

FOR FURTHER INFORMATION CONTACT: Colin C. Rorrie, Jr., Ph.D., Director, Bureau of Health Planning, 3700 East-West Highway, Center Building, Room 6-22, Hyattsville, Maryland 20782, 301-436-6850.

SUPPLEMENTARY INFORMATION: Title XV of the Public Health Service Act ("the Act") sets forth a comprehensive program designed to establish a national

system of State and local health planning, conducted, respectively, by State health planning and development agencies (SHPDAs) and health systems agencies (HSAs). These regulations set forth criteria and procedures to be used by SHPDAs and HSAs in discharging their respective functions under sections 1523(a)(4)(B) and (5) and section 1513(f) of the Act.

Specifically, section 1523(a)(4)(B) requires SHPDAs to "administer a State certificate of need program which applies to new institutional health services proposed to be offered or developed within the State. * * * These programs are required to " * * provide for review and determination of need prior to the time" new institutional health services are offered or developed, or "substantial expenditures" are made for their offering or development. Certificate of need programs must provide that only those new institutional health services which are found to be needed shall be offered or developed in the State. Section 1523(a)(5) provides that the SHPDA is to make its findings as to need "after consideration of recommendations submitted by [HSAs] under section 1513(f)." Under section 1513(f), each HSA is charged with assisting the SHPDA in carrying out its section 1523(a)(4)(B) and (5) functions by reviewing and making recommendations to the SHPDA concerning the need for new institutional health services proposed to be offered or developed in the HSAs health service area.

Section 1532(c)(8) of the Act provides that criteria developed by HSAs and SHPDAs for conducting reviews under section 1513(e), (f), and (g) and section 1523 of the Act, respectively, shall include consideration of "the special needs and circumstances of health maintenance organizations for which assistance may be provided under Title XIII" of the Act ("Health Maintenance Organizations").

Section 117(a) of the Health Maintenance Organization Amendments of 1976, Pub. L. 94-460, amended section 1532(c) of the Act by adding the requirement that "The criteria established by any health systems agency or State Agency under paragraph (8) shall be consistent with the standards and procedures established by the Secretary under section 1306(c) of this Act." The Assistant Secretary for Health has issued a Notice of Proposed Rulemaking which would in part amend 42 CFR Part 110, Subpart B, at § 110.204, by setting forth revised standards and procedures under section 1306(c) of the Act (43 FR 11472). Set forth below are amendments to 42 CFR Part 122, Subpart

D, and 42 CFR Part 123, Subpart E, relating to certificate of need and other reviews of proposed new institutional health services, which articulate the special needs and circumstances of HMOs for which assistance may be provided under Title XIII and which are designed to ensure that review criteria developed under section 1532(c)(8) are consistent with the standards and procedures found at § 110.204.

On March 17, 1978, a Notice of Proposed Rulemaking (NPRM) was published in the *Federal Register* (43 FR 11229-41) proposing to revise the regulations governing reviews of new institutional health services (NIHS), including the certificate of need program, as they apply to the review of health maintenance organizations (HMOs). In addition, other proposed amendments to the NIHS regulations were included with the NPRM on appropriateness reviews which was published in the *Federal Register* on May 16, 1978 (43 FR 21273-82). These latter amendments proposed to require consideration of the needs of minorities, women, and the handicapped by health systems agencies (HSAs) and State health planning and development agencies (SHPDAs) in developing their criteria for review of NIHS. Also reprinted in the May 16 *Federal Register* were the April 8, 1977, amendments to the original January 21, 1977, NIHS regulations, which had been inadvertently omitted when the March 17 NPRM was published.

Since the issuance of the March 17 NPRM in the *Federal Register*, the Congress amended section 1122 of the Social Security Act, "Limitation on Federal Participation for Capital Expenditures," by deleting from that section all references to HMOs. As set forth below, the Department has concluded that these amendments do not affect the statute governing certificate of need review of HMOs and, therefore, do not impact on the provisions of the NPRM.

By deleting HMOs from section 1122, Congress exempted from review under that section capital expenditures for the establishment of HMOs and for the construction of and equipment for their ambulatory health care facilities. To the extent that HMOs propose to make expenditures covered by section 1122 for other health care facilities which are still included under section 1122, such as hospitals and skilled nursing facilities, they would of course still be subject to review. The stated purpose of these amendments was to require that HMOs be covered equally with other health care facilities (see H.R. Rep. No. 95-

1479, 95th Cong. 2d Sess., Aug. 11, 1978, p. 67). Although the Congress considered very similar amendments for the certificate of need program review requirements, it adjourned without enacting those amendments.

Because HMOs as included in section 1523(a) of the Act are defined by section 1531 of the Act to have the same meaning as they are given in the section 1122 program regulations, the Secretary considered whether Congress had, through its modification of the section 1122 program, actually deleted HMOs from required coverage for NIHS, including certificate of need, programs. Because HMOs are listed separately under the required coverage provisions of section 1523(a), and because the Congress has not amended that section to delete them from coverage as it did under section 1122, the Secretary has decided that HMOs are still subject to review under the NIHS, including certificate of need, programs. In order for State certificate of need programs to meet the Federal minimum certificate of need program requirements, it will continue to be necessary for the programs to have authority to review HMOs as specified in these regulations. However, the Secretary strongly urges States to use language in developing their programs which is sufficiently broad so that State programs can fulfill the requirements of these regulations without having to undergo further major revisions if, as expected, the Congress modifies these requirements in its next session.

Comments and suggestions received with regard to these notices of proposed rulemaking, responses thereto, and changes in the proposed regulations are summarized below. This Preamble is organized by section of the proposed rules of March 17 and May 16.

A number of comments were also received on sections of the reprinted regulations which were not proposed to be modified from the final regulations of January 21, 1977. The Secretary wants, nevertheless, to respond to these comments in order to clarify their meaning, because they remain in effect.

A commenter recommended that the term "psychiatric hospital" be redefined so that it is not restricted to hospitals supervised by physicians. The Secretary has not accepted this suggestion, but notes that the definition does not restrict the provision of services to patients solely to physicians.

A commenter stated that it is unclear whether the definition of "intermediate care facility" includes twenty-four hour residential treatment facilities and halfway houses, and alcohol and drug

residential and halfway house facilities which provide clinical services as well as room and board for clients. The Secretary notes that if institutional health services are provided "on a regular basis" then they are required to be covered. The Secretary encourages persons to contact their appropriate State Health Planning and Development Agencies for information as to whether specific facilities or services are subject to review.

Definitions

§ 122.301 and § 123.401 *Definition of HMO*

Several commenters questioned the definition of the term "HMO for which assistance may be provided under Title XIII," and discussed the need for more clarity related to Title XIII and Federal assistance. Some respondents were concerned that the present definition does not clearly state that aid under Title XIII extends to other forms of assistance besides financial, namely, as qualification under Title XIII for purposes of the "dual choice" provisions (section 1310(d)), or the override of restrictive laws (section 1311). The regulations have been clarified to indicate that qualified HMOs as well as HMOs determined to be eligible for assistance are included in this term. The Secretary agrees with the commenter who noted that an HMO which is receiving Federal financial assistance or is qualified under Title XIII should automatically meet the definition and should not be required to submit additional material to the Secretary, as the proposed rules required, and the requirement has been eliminated.

While one commenter fully supported the definition, others questioned exactly which HMOs, Federally and/or privately funded, would be eligible for such special consideration. Another respondent wanted all HMOs to be included so that privately funded organizations would not be disadvantaged. In response, the Secretary notes that a process is being established whereby an HMO entity, other than one already qualified or receiving Federal financial assistance, may submit an application to the Secretary to determine its eligibility. The Secretary wishes to emphasize that the HMO, not the HSA or SHPDA, is responsible for demonstrating that it is "eligible for assistance" for this purpose.

Some commenters were concerned with the process of determining HMO eligibility for Federal assistance. One commenter stressed that the Department should devote special attention to the

issue of timing, since eligibility for special consideration will have to be determined before an HMO makes a certificate of need application. If determinations are not made promptly, the entire purpose of the HMO provisions could be defeated. The Secretary will consider these comments in developing this determination process.

In response to another question, the Secretary notes that the term HMO includes HMOs providing services through individual practice associations (IPAs), as well as HMOs providing services through medical groups or members of their own staffs.

§ 122.304 and § 123.404 *NIHS subject to review*

A commenter proposed to amend this provision to include new institutional health services proposed for HMO members, because, in many cases, such services will be provided by the HMO through contracts or other arrangements with affiliated hospitals and medical groups and not directly by the HMO itself. The Secretary notes that under § 123.404 covered expenditures "by or on the behalf of" an HMO and covered health services offered "in or through" an HMO are within the definition of NIHS subject to review. Accordingly, the Secretary believes that this commenter's concern is adequately addressed in the regulations.

§ 122.304(a) (3), (4) and § 123.404(a) (3), (4) *Changes in bed capacity and new health services*

A commenter recommended that certificate of need review should be required for changes in bed capacity of more than 10 beds or more than 10%, and for home health services to the extent such services are provided to non-HMO patients. The Secretary notes that, with the exception of the mandated exclusion of the feasibility study and planning activities in regard to HMOs which are funded under sections 1303 and 1304 of the Act, the required thresholds apply to all entities covered under a State's program. Therefore, the thresholds the commenter cited do in fact apply to HMO and non-HMO providers servicing either HMO or non-HMO patients. Specifically, the Secretary notes that under § 123.404(a)(3), changes in the bed capacity of an HMO of more than 10 beds or 10 percent are subject to review, and that under § 123.404(a)(4), home health services are not required to be subject to review.

§ 123.304(b)(1) and § 123.404(b)(1) *Exclusion of HMO feasibility and*

planning expenditures from certificate of need program coverage.

Several commenters supported the exclusion of all feasibility and planning grants up to \$200,000 but pointed out that amendments to State certificate of need laws would be necessary. As already noted, the Secretary agrees that State legislative action may be necessary to comply with these regulations.

Other commenters focused on the proposed \$200,000 threshold level. One recommended that this threshold be deleted because of potential changes in funding cycles and amounts. This commenter suggested that there should be no review of HMO planning or feasibility grants regardless of their amount. Another commenter felt that special thresholds for selected types of projects would complicate administration and that even the original \$150,000 threshold might allow significant and sometimes unnecessary predevelopment expenditures. The Secretary's decision to exclude activities funded under these grants from review is consistent with Congressional intent, as discussed in the Conference Committee Report on the HMO Amendments of 1976 (Pub. L. 94-460; see H.R. Rep. No. 94-1513, 94th Cong. 2nd Sess., Sept. 13, 1976, p. 37), that certificate of need review take place after the feasibility and planning assistance has been awarded to the HMO, but prior to the award of the initial development grant.

However, the Secretary agrees that the criterion of a dollar threshold may unnecessarily require future revisions in State legislation and, therefore, the \$200,000 figure has been eliminated. States are urged to consider phrasing any State statutory language broadly to minimize the need to amend State statutes repeatedly. Since Title XIII of the PHS Act contains the specific dollar figures authorized by the Congress for feasibility studies and planning grants funded under Title XIII, it is unnecessary to repeat them in these regulations.

One commenter indicated HSAs should be informed of all feasibility studies which are being conducted in their respective health service areas, and receive copies of the final reports for planning purposes. The Secretary suggests that, at the earliest possible opportunity, HMOs contact the HSAs in their areas, and seek to establish cooperative working relationships with them as required under regulations issued under Title XIII. This is true especially because HSAs will be

conducting reviews of proposed feasibility and planning awards under section 1513(e) of the Act (discussed more fully below) as soon as they assume the review and approval or disapproval function. The Secretary further suggests that planning agencies may receive non-confidential information on any such studies upon request to the appropriate DHEW Regional Office. However, the Secretary strongly believes that direct communication between HSAs and HMOs is the preferred form of contact.

Some commenters asked if the proposed regulations would preclude agency review and approval or disapproval of proposed HMO uses of Federal funds under section 1513(e) of the Act as well. If so, one commenter strongly opposed the regulations, urging that the HSA should retain its right to approve or disapprove Federal expenditures for HMOs. The Secretary assures these commenters that, as noted above, HMO feasibility studies and planning grants will be subject to review by HSAs under section 1513(e). The Secretary anticipates that because section 1513(e) gives final authority to the Secretary to award Federal assistance, less opportunity exists for arbitrary or prejudicial decisions. Further, although Congress has indicated that HMO feasibility and planning grant funds should not be reviewed under the new institutional health services certificate of need program, it has not indicated that these grants should be deleted from reviews under 1513(e).

A commenter asked how the HSA was to know whether or not to review the proposed feasibility and/or planning expenditure under section 1513(e), since at the time of application for the funds, the HSA would not know whether Federal funds would be granted. The Secretary notes that once the review and approval regulations and subsequent Federal guidelines are issued, the HSA will be able to refer to those documents for specific guidance on their review of proposed uses of Federal funds.

Another commenter suggested extending the exemption for predevelopment activities to non-HMO providers as well as HMOs funded under Title XIII, arguing that a certificate of need for a predevelopment stage activity in an inpatient or other outpatient facility is of questionable value. This and other commenters felt that if the level of a substantial expenditure for a Federally assisted HMO is \$200,000 or \$150,000, the same level should apply to all providers. The

Secretary reminds these commenters that Congressional intent, as expressed in the HMO Amendments of 1976, is that feasibility and planning expenditures by HMOs receiving assistance under Title XIII should not be subject to NIHS review. The Secretary, therefore, disagrees that the same predevelopment threshold is necessarily appropriate for all providers. The HSAs will continue to review the feasibility and planning grant applications under Title XIII of the Act (see 42 CFR § 110.204) and soon under section 1513(e) of the Act.

A commenter questioned the legal authority for this special predevelopment threshold exemption for HMOs receiving funds under Title XIII. He indicated that section 1532(c)(8) of the Act mandates that the "special needs and circumstances" of HMOs be considered only in the formulation of *criteria* for review (section 1532(c)(8)). The commenter continued by stating that the statute does not grant either Federal or non-Federal HMOs special exemptions from certificate of need reviews. The commenter recommended that Federally-funded HMOs be subject to the same certificate of need thresholds as other health care providers. In light of the requirement of section 1523(a)(4)(B) that States administer certificate of need programs which are "satisfactory to the Secretary," and given the legislative history of the HMO Amendments of 1976 discussed above, the Secretary has concluded that issuance of these provisions is within his authority.

One commenter suggested specifying exactly when during the feasibility study or planning activity the certificate of need determination should be sought for any new HMO project. As noted earlier, the certificate of need would be required for predevelopment activities under an initial development grant or loan guarantee project, and thus must be obtained before undertaking these activities.

§ 122.306 and § 123.407 Review procedures.

A commenter believed that general improvements in the regulatory procedures would be more effective than the creation of special procedures for review of HMOs. The Secretary notes that more than one method might be successful in correcting the problems associated with timely review of HMOs as well as other providers, and hopes that health planning agencies will take the lead in making recommendations to appropriate State bodies. However, the Secretary believes that these specific procedures for the review of HMOs are

the minimum safeguards necessary for timely review of HMO proposals and are in accord with congressional intent.

The Secretary notes that Pub. L. 95-619, the National Energy Conservation Policy Act, which became law on November 9, 1978, amends section 1532(b)(2) of the Act to require that each HSA's and State Agency's procedures shall provide that in the case of "non-substantive reviews" there be provision for shortened review periods, i.e., less than "to the extent practicable . . . 90 days." In the Secretary's view, the term "non-substantive reviews" refers to certain categories of reviews which the State Agency may wish to conduct on an expedited basis, such as projects for energy conservation or emergency repairs which do not directly affect a facility's beds or services. Under section 1532(b)(2), as amended, the State Agency would be free to expedite its review of such a proposal; however, it would not be permitted to change or avoid any of its required procedures under § 123.407, except with the Secretary's approval under § 123.408 ("Exceptions to the use of procedures"). Any request for exceptions should clearly define the category of proposals to be covered (e.g., institutions of a certain class proposing energy changes of a certain kind or within certain limits.) An exception of this sort does not, of course, affect the other procedures and criteria to be used except insofar as changes in them are part of the approved exception request. The Secretary has decided, therefore, that because adequate provisions already exist for obtaining an exception to procedures for the conduct of expedited, or "non-substantive" reviews, the regulatory language of § 122.306(a)(2) and § 123.407(a)(2) need not be changed. In order to provide opportunity for public comment on the above interpretation, § 122.306(a)(2) and § 123.407(a)(2) are issued as interim final regulations.

§ 123.407(a)(2) Procedures for SHPDA Review.

One respondent believed that the HSA review period for HMOs should be shortened to a maximum of 30, rather than 60 days, as an HMO may still have difficulties if it is struggling under private financing. Because the regulations provide that the entire review period for HMO applications may not exceed 90 days, the Secretary believes that a maximum of 60 days, within that 90-day total, is appropriate for the HSA review.

A respondent indicated that lengthening the review process does not

necessarily occur only during the proposed 90-day period or from the date of submission of a completed application to the SHPDA for review; it may precede these particular steps. The commenter continued by explaining that certain State certificate of need laws require a Notice of Intent to be filed with the SHPDA prior to the start of the 90-day review cycle. Subsequently, a determination is made whether the project needs full certificate of need review, abbreviated review, or no certificate of need review at all. In conclusion, the respondent suggested that the duration of these preapplication steps be shortened. The Secretary understands the concern of the respondent and will be monitoring these types of procedures in certificate of need programs. The revised regulations require that in review of HMO projects, the HSAs must initiate review of the application upon its receipt and cannot require a delay in the start of the review cycle. Those States wishing to require Notices of Intent, therefore, are reminded that they must first request and be granted an exception to procedures, provided for in § 123.408. "Batching" of reviews will be considered under such an exception request.

One commenter suggested that the timing requirements for reviews of HMOs should apply to all applicants, since unnecessarily extended certificate of need reviews have been troublesome for all health providers. The respondent said that what constitutes fair, equitable, and judicious treatment of one category of applicant should be sufficient for any other applicant. Experience under the section 1122 program has demonstrated that the vast majority of all reviews has been conducted within the time limits established in the revised regulations for HMO review. The Secretary expects that this will continue and therefore sees no present need to broaden these provisions to non-HMO providers.

A large number of comments was received regarding time schedules for review. One commenter suggested that if the HSA or SHPDA did not meet the time limits outlined in the regulations, the HMO should have recourse to the Secretary. The Secretary wishes to note, in this regard, that project review decision-making authority in certificate of need programs is with the State Agency, and that he has no specific enforcement role with respect to individual project reviews. Any applicant who believes that a SHPDA has violated its own review procedures should have access to State

administrative or judicial reviews on these matters. It would be inappropriate for the Secretary to become involved in these matters, except to the extent that the Department oversees a SHPDA's general performance of its Title XV functions.

Another respondent commented that the special time schedule provision for HMO review seems inconsistent with the intent of Pub. L. 93-641, which is to allow for sufficient time for review after affected parties have been notified of the start of a review. In those situations where providers and planning agencies have worked together closely prior to submission of the application, the time required for notification of affected parties should not be significant. In addition, this commenter stated that since all providers have timing difficulties relative to the review process, the regulations should apply equally to HMOs. The Secretary agrees that in well planned application submissions the notification of affected parties should be accomplished in a brief time. However, because of the special financing problems, other development needs of developing HMOs, and the Congressional aim to stimulate the development of HMOs, immediate agency action on receipt of HMO applications is necessary. The Secretary notes that some back-logging of applications has occurred under existing certificate of need programs and wants to ensure this does not interfere with HMO development as States begin to operate certificate of need programs under Federal regulations. The Secretary disagrees with the comment that ample time is not allowed in the revised regulations for public comment on HMO applications.

One respondent commented that while the 60 and 90 day review time periods are currently appropriate to ensure expeditious action, the same time limitations should not apply to HMO projects for acute care impatient capacity. This commenter suggested modification of the time requirement based either on project scope or amount of capital investment. The Secretary wishes to state again that exceptions to the required procedures may be requested under § 122.307 and also under § 123.408, and advises planning agencies to be in communication with the appropriate DHEW Regional Office as they develop specific exception requests. In the area of hospital or other inpatient care, he encourages HMOs to lease, contract, or enter other sharing arrangements to obtain the use of facilities owned and operated by non-

HMO providers instead of developing new, unnecessary facilities.

One commenter objected that the proposed regulations seem to allow an HMO to submit an incomplete application and require a State Agency to review it within 90 days; that apparently under § 123.411 a SHPDA may be required to grant approval of an incomplete application; and that § 123.407(a)(15), which requires that a State Agency's failure to act on an application is to be considered a disapproval, would be inoperative under the proposed regulations. The commenter suggested that the 90-day review period commence upon receipt of a complete application. In response, the Secretary has clarified the regulations at § 123.407(a)(2) to provide that the 90 days run from receipt of the application, but only if the application provides the information which the SHPDA has published as being required in accordance with § 123.407(a)(3). Pre-application consultation between agencies and HMOs will minimize the problems in this area, as will full publication by the planning agencies of what information is required of the HMO applicant, in accordance with § 122.306(a)(3) and § 123.407(a)(3).

It is emphasized that § 123.407(a)(15) is and must be operative for HMOs as well as other applicants in order to be consistent with section 1523(a)(4)(B) of the Act, which requires a positive finding of need prior to the offering of services subject to NIHS review. The language of § 123.407(a)(15) has been modified to ensure that a certificate of need shall not be issued unless the SHPDA has found the proposed NIHS to be needed, but no longer states that non-action by the SHPDA requires the project to be deemed disapproved. This modification is in harmony with apparent Congressional intent not to disadvantage an applicant because of SHPDA inaction. Thus, for example, if a SHPDA did not take action on an application within the required time frame, the applicant would not have the stigma of a disapproval automatically associated with its proposal.

In response to comments that it will be impossible to obtain approval of additional criteria from the Secretary within the 60-day review time, the Secretary wishes to clarify that additional criteria for HMOs for which assistance may be provided under Title XIII of the Act must be formulated not only with the approval of the Secretary, but also in accord with the adoption and public notice of review procedures and criteria provisions of § 123.406 and § 122.305. All criteria, then, are required

to be prescribed and published prior to their use; criteria to be used cannot be developed on an ad hoc basis for individual review as the commenters seemed to believe.

**§ 122.306(a)(5) and § 123.407(a)(5)
*Notice of agency findings.***

A commenter indicated that the proposed language requiring the planning agency to inform the appropriate DHEW Regional Office of its findings in the case of HMOs would unnecessarily increase the paperwork of the health planning agencies. This provision does not impose a new reporting requirement, but merely requires a copy of the written findings made in accord with § 122.306(a)(5) and § 123.407(a)(5) to be sent to the Regional Office.

§ 123.308(a) and § 123.409(a) *Criteria for review.*

Public Law 95-619, referred to above, the National Energy Conservation Policy Act, also added paragraph (c)(10) to section 1532(c) of the Act, providing for an additional criterion. This requires consideration of the special circumstances of health care facilities and HMOs with respect to the need for conserving energy. This provision has been incorporated into the regulations as § 122.308(a)(14) and § 123.409(a)(14).

Several respondents made general comments regarding the proposed criteria for review. The majority of these comments, most of them from HMOs, fully supported limiting the criteria to be used by HSAs and SHPDAs because of the distinct character of the HMO system of health care delivery.

One commenter stated that without the use of separate criteria to determine the need for HMOs, parties interested in developing this type of prepaid health system would have to spend large amounts of time and money to overcome bias in the established medical and health fields against this type of alternative health delivery system. Others supported these sections because the provisions permit HMOs to grow and develop while allowing planning agencies to perform adequate reviews of HMO projects. Another commenter observed that these criteria are clearly mandated by the Congress in the Conference Report (House Report 94-1513) describing the intent of section 117 of the HMO Amendments of 1976 (Pub. L. 94-460).

A number of comments, however, were received which objected to the review criteria provisions. Commenters indicated that all HMO proposals should be reviewed under all the review criteria

contained in the NIHS regulations. Others believed that the review criteria proposed are so narrow that the needs of the health service area cannot be considered and that this circumvents the intent of Pub. L. 93-641.

As noted elsewhere in this preamble, the restricted review criteria apply only to HMOs which may be eligible for Federal assistance under Title XIII, not automatically to any entity calling itself an HMO. In addition, § 122.308(c) and § 123.409(c) include a provision that the criteria for project reviews of such HMOs may be expanded upon the Secretary's approval of additional review criteria. Procedures for approval of criteria will be developed and will be transmitted to health planning agencies, HMOs and other interested groups. Therefore, the Secretary does not agree that the review criteria are too narrow or that they circumvent the intent of Pub. L. 93-641.

Several commenters felt that the proposed regulations, particularly the Federally imposed limitation on HMO review criteria, impede the ability of planning agencies either to conduct local health planning or to formulate a local plan for the rational development of HMOs in their areas, and to base their certificate of need decisions on that plan. The Secretary feels the regulations do not prevent planning agencies from planning for HMO development, i.e., planning for projected HMO members. On the contrary, such planning is encouraged. The Secretary has modified § 122.308(a)(10)(ii) and § 123.409(a)(10)(ii) to include the availability of services from not only non-HMOs, but also other HMO providers. The regulations now simply limit the review criteria to an evaluation of the needs of the HMO members and of the availability of the services from non-HMO providers or other HMOs, and require that disapprovals not be based on extraneous factors. It is advisable for planning agencies to consider the interface between the development of HMOs and existing services and facilities. This will be particularly important as agencies initiate appropriateness reviews and make public their findings in these reviews. In addition, the Secretary notes that under § 123.310 and § 123.411, *Required findings*, health planning agencies are required to recommend or grant certificates of need only if the proposed services are not available to the HMO in an acceptable manner from within the existing health care system. He hopes that the combined effect of the review criteria and the required findings will be such that HMOs will become better able

to utilize existing non-HMO facilities and service providers while, nevertheless, maintaining the competitive benefits of an alternative system.

In response to a commenter who expressed concern that, by the Department's attempt to promote HMOs, local and State reviews were being obviated by the limited review criteria and that this in turn would lead to implementation of unfeasible HMO projects, the Secretary offers the following explanation. Even prior to the recent amendment of section 1122 of the Social Security Act, which eliminated HMOs and their ambulatory care facilities from section 1122 review, Congressional intent as expressed in the HMO Act of 1973, the National Health Planning and Resources Development Act of 1974, and the HMO Amendments of 1976 mandated that the Department, through the health planning agencies, assist the development of HMOs as an alternative delivery system. These Congressional mandates were the reason that the Department issued the March 17 NPRM proposing to revise the NHPA regulations to facilitate the development of HMOs.

In addition, the Secretary notes that the Department's Office of HMOs will review projects for Federal assistance, monitor the performance of most of the HMOs to which these criteria provisions apply, and thereby be able to determine which proposals are not feasible. Further, for HMOs which apply for Federal assistance, the Department will, after considering the advice of the HSA in its conduct of reviews under 42 CFR § 110.204 or § 1513(e), have final authority to determine whether to grant the applicant Federal funds.

One commenter objected to the use of the word "arbitrary" in the March 17 NPRM in describing some of the HSAs' past procedures and recommendations in reviews of HMOs. The commenter indicated that HSAs have acted appropriately in their review of HMOs. While this may be true as a general rule, the Department has received a number of reports that HMOs have been treated arbitrarily by health planning agencies.

Further, the Secretary disagrees with the HSA commenter who believed that the original HSA and SHPDA regulations sufficiently protected HMOs from the arbitrary recommendations or decisions of planning agencies. He believes that these revised criteria for review are also an important protection and that as health planning agencies request approval of additional criteria, an important educational process will ensue among health planning agencies

on the characteristics of HMOs and alternative delivery systems generally. The Secretary believes that too few persons are knowledgeable about HMOs, their effects and their services, and thus he encourages health planning agencies to become more knowledgeable about them.

Another respondent objected to the provision in § 123.409(a) which states that HMOs would not be subject to the other review criteria under that paragraph. The commenter noted that the "special needs and circumstances" of HMOs is only one of the nine factors and that the other eight considerations must be considered in reviews of HMO as well. The commenter felt if the Secretary were to exempt HMOs in the manner proposed by the regulations, he would in effect be illegally amending the statute. Another commenter suggested that if problems exist in the regulatory process, equity demands that these be corrected for all providers.

The Secretary is of the view that Title XV of the PHS Act authorizes him to modify the criteria for reviews of HMO proposals. He cites not only section 1532(a), which states that agencies must, " * * * except to the extent approved by the Secretary, follow procedures, and apply criteria, developed and published by the agency in accordance with the regulations of the Secretary," and section 1532(c)(8), which mandates consideration of special needs of HMOs which may be eligible for assistance under Title XIII, but also section 1523(a)(4)(B), which requires SHPDAs to administer State certificate of need programs that are satisfactory to the Secretary. Thus, the legislation provides the Secretary flexibility to adopt regulations imposing specific requirements for review of HMOs under State certificate of need programs. Moreover, the last sentence of section 1532(c) provides that "the criteria established by any [HSA] or [SHPDA] under paragraph (8) shall be consistent with the standards and procedures established by the Secretary under section 1306(c) of this Act." The standards which the Secretary is developing under section 1306(c) are, in accordance with the legislative history of the HMO Amendments of 1976 discussed above, limited to the same considerations, set forth in § 122.308(a)(10) and § 123.409(a)(10). See 43 FR 11472-6.

In response to the commenters who predicted costly duplication of services and equipment, the Secretary wishes to emphasize that, while some duplication may continue to occur as it has in all health delivery systems prior to these

revised regulations, he does not believe that the regulations will contribute to that duplication. Indications are that because the numbers of providers and facilities are limited, as HMOs develop, existing providers and facilities may either join with HMOs or may cooperate with them in providing services as they better understand HMOs. It was with this specific intention that the § 122.307 and § 123.408 and § 122.310 and § 123.411 provisions were developed; these provisions limit the bases on which a certificate of need may be denied for an HMO proposal. For example, one such reason for denial might be that the HMO is able to obtain the necessary services for its members through arrangements with existing providers in a manner consistent with its method of operation. The Secretary thus hopes to encourage cooperative competition among the various sectors of the health system.

Some commenters felt it would be unwise to allow the development and expansion of Title XIII HMOs in an area where the population size is such that existing prepaid plans would be adversely affected by such additional competition. They predicted underutilization of services similar to that presented by the proliferation of hospitals.

The Secretary points out that developing or new HMOs utilize many of the health personnel and facilities already present in the service area. The regulations aim to prevent the duplication of unneeded facilities and services by new HMOs when these are available through coordination or contract with non-HMO providers. Further, the Secretary notes that even in areas which have multiple HMOs in existence, studies indicate that additional cost benefits can be achieved by HMO competition. Therefore, competition among several HMOs may not be harmful. In any event, the planning agencies may consider these factors under the consideration which refers to the need for the proposed services by projected members of the HMO (see § 123.409(a)(10)(i)); they may thus evaluate whether there is a need for an HMO at all.

One respondent pointed out that the proposed regulations made no provision for the HMO which creates a contracting and administering network within the existing community of providers and facilities to guarantee the availability of health care services as specified in the HMO contractual benefits package. The Secretary wishes to clarify that if any entity covered by the State certificate of need program

wishes to institute "new services," as defined by the State, not regularly offered by that entity in the previous twelve month period, a certificate of need must be obtained. He wishes to note that if these services were to be offered or provided on behalf of the HMO by a provider not ordinarily subject to the certificate of need requirements of a State, a certificate of need would be required. The reader is referred to page 4006 of the January 21, 1977, *Federal Register*, which discusses this issue more fully.

Further, he wishes to note that the revised regulations for certificate of need review are available for all HMO entities which may be eligible for assistance under Title XIII. Therefore, the individual practice association (IPA) model HMO to which the commenter seems to be making reference, if eligible for this assistance, would be reviewed under the "special consideration" and "required findings" provisions.

The commenter added that there should be a "grandfather clause" to assist those developing HMOs which have been funded in the past. The Secretary notes that Title XV does not permit a "grandfather clause." He expects, however, that those developing HMOs to which the respondent refers will be sufficiently assisted by the revised regulations.

Commenters urged that the Department extend these regulatory provisions to cover all those entities, particularly those involved with federally funded research and training of health professionals, whose proposals are unique due to their "special needs and circumstances." One commenter reported that other organizations besides HMOs have encountered problems in the regulatory process. A commenter requested that Federal research and training projects not be subject to NIH's, certificate of need review. Because the statutory provisions and legislative history noted above identify only HMOs as being entities which the Congress believed required the special provisions set forth in these regulations, the Secretary has not extended the revised regulations to entities other than HMOs eligible for assistance under Title XIII. However, health planning agencies are already required under § 122.308(a) (9) and (11) and § 123.409(a) (9) and (11) to consider the special needs and circumstances of certain other entities. He prefers to leave decisions regarding the specific criteria developed regarding their special needs to local and State planning agencies. He does not equate the problems encountered by these

entities with those of developing HMOs. However, he urges these organizations to communicate with the planning agencies about their special needs and circumstances.

§ 122.308(a) and § 123.409(a)(3) *Need for present and proposed services.*

One commenter requested clarification of this section and suggested that the regulatory language be as specific and descriptive as that expressed in the Preamble to the proposed rules. The Secretary agrees that clarification is appropriate and has revised § 122.308(a)(3) and § 123.409(a)(3) accordingly. These sections now refer both to the needs of the population to be served for the proposed services and to the effect of any reduction or elimination of services on the needs of the population presently served by those services. In addition, these sections further describe the "population" served or to be served as including low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups. Further discussion of these population groups is set forth in regard to § 122.308(a)(13) and § 123.409(a)(13).

§ 122.308(a)(10)(i) and § 123.409(a)(10)(i) *Needs of HMO members.*

The specific criteria which planning agencies are required to consider in the certificate of need review (i.e., needs of present and anticipated HMO members) drew considerable comment. The Secretary, although he agrees with a commenter who states that HMOs themselves must properly plan for services, does not agree that HSAs and SHPDAs will be planning only for non-HMO populations. He notes that it is the responsibility of health planning agencies to plan for health services for the total population of their planning areas for all types of services, including those services which are entirely outside the certificate of need review process. Nothing in these amendments lessens the responsibility of health planning agencies to plan for the segment of the population who are HMO enrollees. In response to another comment, the Secretary agrees that population based planning must take into consideration that certain populations obtain services from one particular entity, e.g., HMO membership and populations which receive care from the Veterans Administration and the Department of Defense. For that reason, he disagrees with the commenters who feel planning for HMOs creates artificial population groups.

In response to that comment and to an inquiry on how to integrate HMO member planning and population based planning, the Secretary notes that estimates of services for HMO members are part of the developmental planning which HMOs receiving Federal financial assistance must undertake. The state-of-the-art for estimating needs of HMO enrollees is becoming more refined. Further, health planning techniques for population based planning are rapidly improving as planning agencies gain more diverse and extensive experience with various populations. The integration of broad population based planning with planning for developing HMOs is feasible. One method which may be effective is to identify HMO enrollees as a subset, within an acceptable numerical range, of the broader population group. For example, the HMO can provide the HSA and SHPDA with information on the demographic characteristics of its enrollees or projected enrollees; the planning agency will then be able to extrapolate from this reference group to the overall population.

§ 122.308(a)(10)(ii) and § 123.409(a)(10)(ii) *Availability of services from other providers.*

Many respondents approved the criterion which describes the factors to be used in determining whether an HMO can obtain services from non-HMO providers in a reasonable, cost effective manner. The Secretary believes that the provision will prevent duplication of services already existing outside HMOs by encouraging HMOs and non-HMOs to share facilities and services while remaining in competition in regard to their method of health financing, i.e., prepaid or fee-for-service systems.

In response to a commenter seeking clarification of the documentation of efforts to utilize existing facilities which should be required, the Secretary expects that HSAs and SHPDAs will establish a process to determine the role that health planning agencies, HMO applicants, and existing providers will play in this important area.

One commenter requested clarification of the meaning of § 122.308(a)(10)(ii), which discusses consistency with the basic method of operation of the HMO. Referencing paragraph (a)(10)(ii)(D), another commenter recommended that the term "administratively feasible" be carefully defined. The Secretary notes that the mode of operations may differ among HMOs. Some, such as staff or medical group model HMOs, deliver services at

one site, or nearby facilities; others, such as IPA model HMOs, provide services at the offices of providers throughout their service areas. The language used is to ensure that HMOs will not be required to enter into agreements which would require multiple service facility sites across the HMO's service area or which would be inconsistent with other aspects of their organization or operation, such as their systems for utilization controls, quality of care review, or methods of payment.

Commenters questioned whether Federal money expended for the development, operation or expansion of HMOs must or should be considered as part of a cost comparison under paragraph (a)(10)(ii)(C). Another commenter expressed concern regarding comparisons of organizations with dissimilar accounting and reporting systems, or services and overhead. The Secretary notes that many such specifics are not appropriate for these regulations, recognizing that health planning agencies, together with HMOs and non-HMO providers, will have to work out many details to implement them. The planning agencies must adopt and publish, under § 122.305 and § 123.406, the specific criteria for all reviews. Clearly, adjustments to ensure comparable cost comparisons need to be made in order for a fair comparison of costs to occur. In response to concerns expressed by some commenters, the Secretary intends to monitor the development of HMOs and the actions of the non-HMO provider community in relation to reasonable costs of contracts for services to HMO members.

§ 122.308(a)(10)(iii) and
§ 123.409(a)(10)(iii) *Other factors which an HSA may propose*

A number of commenters supported this provision. One respondent stated that the Secretary should consider only whether the additional criteria are consistent with the purpose of Title XIII of the Act, and that any criteria should also apply to all applicants, whether HMO or non-HMO providers. Another felt that the provision would prevent HSAs from developing criteria biased against HMOs and that the Secretary should carefully deliberate prior to approval of additional criteria.

The Secretary notes that additional criteria will be approved only after review by the Department's Regional Office staff for both the health planning and HMO programs, noting that these decisions should be consistent with Title XIII of the Act.

§ 122.308(a)(13) and § 123.409(a)(13)
Needs of medically underserved groups

and groups with problems of equal access to health care

Commenters both praised and criticized the proposal that consideration be given to the contribution of the proposed institutional health service in meeting the health related needs of women, minorities and the handicapped. Some suggested that the regulations be expanded to include additional groups such as the elderly, children, pregnant women and the medically underserved generally, whose health care problems merited special consideration.

Others thought that there is no evidence that women and minorities have special unmet health care needs and that requiring their consideration places HSAs in the role of civil rights investigators. Another commenter questioned the legal basis for the section and said that § 122.308(a)(3), (the "need that the population served * * * has for such services") logically includes consideration of any special needs. One commenter suggested that such consideration prevented giving equal consideration to needs of *all* individuals in the health service area. And finally, a State Agency stated that this provision was unnecessary because consideration of the needs of these and other groups would already be part of an agency's planning process.

After thoughtful consideration of the comments, the Secretary is revising § 122.308(a)(13) and § 123.409(a)(13) by stating that special consideration shall be given to the needs of "members of medically underserved groups and members of groups which have traditionally experienced difficulties in obtaining equal access to health services * * *". The regulation cites low income persons, racial and ethnic minorities, women, and handicapped persons, as examples of these groups. The Secretary points out that these are only illustrative and that there may be other groups whose needs merit special attention in particular health service areas or States. The regulations then call attention to those health related needs identified in the applicable health systems plan and annual implementation plan as deserving of priority.

The Secretary believes the revision serves several purposes. First, while highlighting several of the more prominent groups which are underserved or have problems of access, it does not limit consideration exclusively to them. Second, it enables agencies to identify the groups in their area which have traditionally experienced access problems and to

provide special consideration as to how the health related needs of these groups can be met. Third, while the section is not meant to encourage the planning or carrying out of reviews by population subgroups, it is designed to remind the agencies that the Secretary is vitally interested in the health care that is accorded to these example groups and will be monitoring their situations closely.

While the Secretary agrees that consideration of the "need the population served * * * has for such (proposed) services" can be read broadly to include the needs of these groups, he has concluded that this more explicit statement is necessary for the following reasons. First, it is the most appropriate way to call attention to problems of equal access and medical underservice, given the Department's strong commitment to resolving these problems. Second, it includes the needs of these population groups for services other than the proposed services; in particular, existing services which may be reduced or eliminated as a result of the proposal. (In this regard, see paragraph (a)(3) of these sections.)

Because section 1532(c) of the Act refers to criteria which include consideration of "at least" the factors specified in the Act, because the Secretary views paragraph (a)(13) as being in part a more explicit statement of paragraph (a)(3) (which is derived from section 1532(c)(3) of the Act), and because issues of equal access and medical underservice were so explicitly referred to by the Congress in enacting Title XV (see, for example, sections 2(a)(2) and (3) of Pub. L. 93-641, sections 1502 and 1532(c) of the Act), the Secretary views the promulgation of paragraph (a)(13) as clearly being authorized.

One commenter, in supporting the requirement in the proposed rules of a special criterion concerning women, minorities, and the handicapped, also suggested that health planning agencies be obliged to make a formal written finding that women, minorities, and the handicapped were not discriminated against before arriving at recommendations or decisions approving the relocation of health facilities or the termination of health services. The Secretary points out that the regulations, at § 122.306(a)(5) for HSAs, and § 123.407(a)(5) for State Agencies, require these agencies to make written findings which state the basis for any final decision or recommendation made by them. These findings are expected to be made with respect to any of the required criteria

which have an impact or bearing on individual health planning agency decisions and recommendations. However, because of the impact that relocation of health facilities and termination of health services may have on minority populations, the Secretary urges all State Agencies and HSAs to consider this impact and to be particularly careful to make the required findings with respect to this new criterion. The Secretary notes that these findings will be monitored by the Department as agencies seek to renew their designation agreements and as part of the regular monitoring called for by section 1535(c) of the Act, in order to ensure that the appropriate findings are developed.

One organization supported this proposed regulation, but referring to the developmentally handicapped requested that § 122.308(a)(4) and § 123.409(a)(4) be revised to read "the availability of less costly, more effective, *less restrictive or more normalizing* alternative methods of providing such services." The commenter wanted the same underlined phrase to be included in § 122.309(b)(1) and § 123.410(b)(1) for review of inpatient facilities. The Secretary declines to accept this suggestion. He feels that the revised language for § 122.308(a) (3) and (13) and § 23.409(a) (3) and (13) provides adequate assurance that the needs of handicapped persons will be considered in reviewing applications. And, although he is not prescribing language specifically for the handicapped (nor for that matter any other group), he expects planning agencies to develop criteria consistent with these considerations as local circumstances require. The Secretary also notes that the quality and standard of care are considered in the State and Federal certification and licensing of facilities dealing with the developmentally handicapped. § 122.310(a)(2) and § 123.411(a)(2) *HMOs; required findings.*

One commenter questioned HMOs being accorded the special privilege of not having their certificate of need applications automatically denied when they propose services not contemplated in any of the HSA and State plans required by the statute. The Secretary notes that although health plans are to be as inclusive as possible, while being specific in as many respects as appropriate, no certificate of need, for an HMO or any other applicant, should be denied simply because the proposed services are not discussed in previously adopted plans. The purpose of specifying this point in the regulations

with respect to HMOs is to ensure that such lack of inclusion not serve as a basis for denial of HMO applications. In addition, the Secretary notes that although there is no present statutory mandate that requires all reviews to be consistent with HSPs and SHPs, these documents are to be the main basis of review decisions in adequately functioning SHPDAs; decisions inconsistent with them should be a rarity; they will be supplemented by special service criteria, in some cases, when there has not been time to include these services in plans.

The Secretary particularly wants to respond to the commenter who felt these provisions might interfere with implementation of HSPs, noting that section 1513(b)(2) of the Act requires that HSAs, in developing HSPs, consider the National Guidelines in section 1501 and the National Health Priorities in section 1502. Further, the National Guidelines for Health Planning, published on March 21, 1978, provide that HSPs take account of the special needs and circumstances of HMOs. Therefore, it is expected that HSPs will address the development of HMOs and that these regulations will not adversely impact on the HSPs.

§ 122.310(b)(1)(i) and § 123.411(b)(1)(i) *Needs of HMO members.*

Two commenters expressed concern about the measurement of HMO need determination. One stated that it was unrealistic to expect any planning agency to have the ability to make need determination for such an arbitrarily defined segment of an area's population. The Secretary agrees that the measurement of need determination is a difficult process, but believes that it is no more difficult to determine need for HMO member services than for the general population base. In fact, it may be a simpler process because of the existence of multiple retrospective studies, particularly in regard to hospitalization, on HMO member groups' utilization of services. Further, planning agencies will have HMO planning information from which to make projections of services needed for the health service area planning purposes.

§ 122.310(b)(1)(ii) and § 123.411(b)(1)(ii) *Availability of services from other providers.*

A commenter pointed out that to fulfill the requirements of these proposed regulations, an organization would have to be an HMO and that the regulations imply non-HMO provider services cannot operate in a "reasonable and

cost effective manner." The commenter objected to the rationale of the proposed regulations since he does not accept HMOs as a superior mode of health delivery. The Secretary, agreeing that the provision applies only to HMOs, does not feel that it in any way implies that non-HMO providers do not also operate in a reasonable and cost effective manner. The Secretary notes, however, that some research studies have shown evidence that costs of care decrease even in the fee-for-service model of delivery as a result of the development of HMOs in the same geographic area, and that most studies done to date indicate that HMOs appear to meet their members' needs at a lower cost than in the fee-for-service sector. However, the Secretary recognizes that analysis and evaluation of prepaid health delivery systems must continue.

§ 122.310(c) and § 123.411(c) *Construction, development, and establishment of new in-patient facilities*

As these sections appeared in the proposed regulations, they provided that the HSA was required to recommend denial of, and the SHPDA was required to deny, a certificate of need for inpatient facilities proposed by an HMO for which assistance may be provided under Title XIII if: (1) utilization of the facility by members of the HMO would not account for at least 75 percent of the projected inpatient days of the proposed facility, and (2) the new service was not needed by the enrolled or prospective HMO members, or that it was reasonably available from non-HMO providers, or that it was not needed based on other factors specifically approved by the Secretary.

Several commenters expressed dissatisfaction with this provision. Their major concern was that diverse community needs were not adequately taken into account by this mandatory and, in their view, arbitrary denial of certificate of need by the SHPDA under the stated conditions. The Secretary considered these comments and concluded that this provision required revision for the following reason. Under § 123.411(c), the SHPDA could not deny the application unless it made a finding under § 123.411(b). Since one of the findings under the latter provision is that a facility must not be needed by the HMO's members, an HMO which did not meet the 75 percent level could nevertheless obtain a certificate of need for the inpatient facility simply by demonstrating a small degree of need by its members for the facility, even though a large portion of the facility would be

utilized by non-HMO members, who might not need these inpatient services. In light of these problems, the Secretary has changed the final regulations.

The regulations, as they now stand, set out two different procedures for review to be utilized by HSAs and SHPDAs during evaluation of proposals for new inpatient facilities by HMOs which may be assisted under Title XIII. The procedure to be used depends on the initial determination by the planning agency as to whether the HMO meets the 75 percent requirement, as discussed above. If the agency finds that the HMO members will account for less than 75 percent of the projected annual inpatient days, then it must utilize all available review criteria, without restriction, in order to determine the need for the inpatient facility. In other words, the SHPDA must consider all the factors listed in § 123.409(a) ("Criteria for review") and § 123.410 ("Inpatient facilities; required findings"). However, the agency may give whatever weight it deems appropriate to any particular factor, so long as it considers the special needs and circumstances of HMOs as laid out in § 123.409(a)(10). (The corresponding provisions for the HSA are found at § 122.308(a) and § 122.309.)

If the SHPDA determines that HMO members will account for at least 75 percent of the projected annual inpatient days, then the proposal will be reviewed solely under § 123.411(b). (For HSAs, § 122.310(b).) It should be noted that this is not equivalent to an automatic granting of a certificate of need to all projects for which this affirmative determination is made. Rather, such HMOs receive the benefit of the required findings section. This means that the HSA and SHPDA may make positive or negative recommendations and decisions on such proposals, but these must be based solely on § 122.310(b) and § 123.411(b), respectively.

The Secretary feels that the final regulations make the review process of proposed new institutional health services, as applied to inpatient proposals by HMOs, flexible enough to take into account variations in community needs while still providing and incentive to utilize facilities to their greatest capacity.

A group of commenters questioned the validity of using 75 percent as the cutoff figure, stating that the requirement was too high. The Secretary feels that 75 percent is a realistic limit. He agrees, however, that the percentage of inpatient days should be linked to the recommended occupancy level set forth in the applicable health systems plan,

rather than to the applicant's projection of the facility's expected occupancy level. The occupancy level recommended in the HSP will have been developed after appropriate consideration of the National Guidelines for Health Planning issued under section 1501 of the Act. This ties the review of inpatient proposals by HMOs to national health planning policy as it is incorporated into the plan of the appropriate HSA, thus reflecting local needs and conditions. The language of this provision has been modified accordingly.

Effective date provisions: These regulations are effective upon publication in the Federal Register. However, because the question of when the Secretary will determine whether a State's certificate of need program is satisfactory is not addressed in the regulations themselves, the Secretary has decided as follows.

Initially, the Secretary notes the relevant statutory provisions. Under section 1521(b)(2)(B) of the act, the term of a conditional designation agreement of a SHPDA may not exceed 36 months. A fully designated SHPDA must, under section 1521(b)(3), be capable of performing all the functions specified in section 1523, including certificate of need reviews, during its first year of full designation. If on September 30, 1980, a designation agreement under section 1521 is not in effect in a State, the Secretary is prohibited by section 1521(d) from paying certain Federal funds for the development, expansion, or support of health resources in that State.

Accordingly, in determining whether a SHPDA is capable of administering a satisfactory certificate of need program (which is a necessary element in establishing eligibility for full designation), the Secretary will require compliance with these revised regulations as follows:

(1) For States in which State Agencies do not require additional legislative authority to implement the revisions to these regulations, the Secretary will require their implementation within six months after publication of this document in the Federal Register, and in accord with other SHPDA designation requirements.

(2) For those States in which the State Agencies do require additional legislative authority to implement the revisions to these regulations, the Secretary will require their implementation within six months after the end of the earliest legislative session in which legislation to permit this implementation may be introduced and

acted upon, and in accord with other SHPDA designation requirements.

After consulting with their legal counsel, SHPDAs should contact the appropriate DHEW Regional Office to determine into which of these categories they fall.

As noted above sections 122.306(a)(2) and 123.407(a)(2), governing shortened review periods in accordance with the amendments to the Act made by the National Energy Conservation Policy Act, are issued in interim final form. Public comments received within 60 days after publication of this document in the Federal Register will be considered, and the Secretary will further revise this provision as warranted by his analysis of these comments.

Accordingly, 42 CFR Part 122, Subpart E, and 42 CFR Part 123, Subpart D, are amended in the manner set forth below.

Dated: February 5, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: March 23, 1979

Joseph A. Califano, Jr.

Secretary.

PART 122—HEALTH SYSTEMS AGENCIES

1. Part 122 of Title 42, CFR, is amended by revising Subpart D to read as follows:

Subpart D—Procedures and Criteria for Review of New Institutional Health Services

Sec.	
122.301	Definitions.
122.302	Purpose and applicability.
122.303	General.
122.304	New institutional health services subject to reviews.
122.305	Adoption and public notice of review procedures and criteria.
122.306	Procedures for health systems agency review.
122.307	Exceptions to use of procedures.
122.308	Criteria for health systems agency review.
122.309	Inpatient facilities; required findings.
122.310	Health maintenance organizations; required finding.

Authority: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); sec. 1532 of the Public Health Service Act, 88 Stat. 2251-53 (42 U.S.C. 300n-1).

§ 122.301 Definitions.

In addition to the terms defined in subpart A of this Part, as used in this subpart:

The term "to develop," when used in connection with health services, means to undertake those activities which on their completion will result in the offering of a new institutional health service or the incurring of a financial

obligation, as defined under applicable State law, in relation to the offering of such a service.

The term "health care facility" is defined under section 1531(5) of the Act to have the same meaning as such term as in regulations prescribed under section 1122 of the Social Security Act. Such regulations (42 CFR 100.102(e)) define the term "health care facility" as including hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers, including freestanding hemodialysis units, intermediate care facilities, and ambulatory surgical facilities, but does not include Christian Science sanatoriums operated, or listed and certified, by the First Church of Christ Scientist, Boston, Massachusetts. Such regulations also provide that:

(1) The term "hospital" means an institution which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such terms do not include psychiatric and tuberculosis hospitals.

(2) The term "psychiatric hospital" means an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons.

(3) The term "tuberculosis hospital" means an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis.

(4) The term "skilled nursing facility" means an institution or a distinct part of an institution which is primarily engaged in providing to inpatients skilled nursing care and related services for patients who require medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

(5) The term "intermediate care facility" means an institution which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require health related care and services (above the level of room and board).

(6) The term "ambulatory surgical facility" means a facility, not a part of a hospital, which provides surgical

treatment to patients not requiring hospitalization.

Such term does not include the offices of private physicians or dentists, whether for individual or group practice.

The term "health maintenance organization" or "HMO" is defined under section 1531(5) of the Act to have the same meaning as such term has in regulations prescribed under section 1122 of the Social Security Act. Such regulations (42 CFR 100.102) define the term "HMO" to mean a public or private organization, organized under the laws of any State, which

(1) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, X-ray, emergency and preventive services, and out-of-area coverage;

(2) Is compensated (except for copayments) for the provision of the basic health care services listed in paragraph (c)(1) of this section to enrolled participants on a predetermined periodic rate basis; and

(3) Provides physicians' services primarily (i) directly through physicians who are either employees or partners of such organization, or (ii) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

The term "health maintenance organization for which assistance may be provided under Title XIII" means an HMO which is qualified under section 1310(d) of the Act or an HMO which the Secretary determines, upon the basis of an application and the submission of any information and assurances which he finds necessary, may be eligible for assistance under Title XIII of the Act.

The term "health services" means clinically related (i.e., diagnostic, treatment, or rehabilitative) services, and includes alcohol, drug abuse, and mental health services.

The term "institutional health services" means health services provided in or through health care facilities or HMOs and includes the entities in or through which such services are provided.

The term "to offer," when used in connection with health services, means that the health care facility or HMO holds itself out as capable of providing, or as having the means for the provision of, specified health services.

The term "person" means an individual, a trust or estate, a partnership, a corporation (including associations, joint stock companies, and

insurance companies) a State, or a political subdivision or instrumentality (including a municipal corporation) of a State.

§ 122.302 Purpose and applicability.

Section 1513(f) of the Public Health Service Act requires each health systems agency, in order to assist State Health planning and development agencies in carrying out their functions under paragraphs (4) and (5) of section 1523(a), to review and make recommendations to the appropriate State Agency respecting the need for new institutional health services proposed to be offered or developed in the health service area of such health systems agency. Section 1523(a) of the Act requires that in performing its review functions under section 1513(f) of the Act or in conducting any other reviews of proposed health services, each health systems agency shall follow procedures and apply criteria developed and published by the health systems agency in accordance with regulations of the Secretary. This subpart sets forth the minimum procedures and criteria to be utilized by health systems agencies in conducting such reviews and the manner in which such procedures and criteria shall be developed and published.

§ 122.303 General.

Except as provided in § 122.307, each health systems agency shall utilize review procedures and criteria which meet the requirements of §§ 122.306 and 122.308, respectively, when conducting reviews of new institutional health services and other reviews of proposed health services. The public shall be given notice of such review procedures and criteria in accordance with the requirements of § 122.305. In addition, in the case of any proposed new institutional health service for the provision of health services to inpatients, the health systems agency shall comply with the requirements of § 122.309; in the case of any proposed new institutional health service proposed for an HMO the health systems agency shall comply with the requirements of § 122.310.

§ 122.304 New institutional health services subject to review.

(a) All new institutional health services proposed to be offered or developed within the health service area of the health systems agency shall be subject to review under this subpart. For purposes of this subpart, "new institutional health services" shall include:

(1) The construction, development, or other establishment of a new health care facility or HMO.

(2) Any expenditure by or on behalf of a health care facility or HMO in excess of \$150,000 (or such lesser amount as the State may specify) which, under generally accepted accounting principles consistently applied, is a capital expenditure, except that this subpart shall not apply to expenditures for (i) site acquisitions; (ii) acquisitions of existing health care facilities and HMOs; or (iii) expenditures solely for the termination or reduction of beds or of a health service; unless included by the State in its scope of coverage. Where a person makes an acquisition by or on behalf of a health care facility or HMO under lease or comparable arrangement, or through donation, which would have required review if the acquisition had been by purchase, such acquisition shall be deemed a capital expenditure subject to review.

(3) A change in the bed capacity of a health care facility or HMO which increases the total number of beds (or distributes beds among various categories, or relocates such beds from one physical facility or site to another) by more than 10 beds or more than 10 percent of total bed capacity as defined by the State, whichever is less, over a two-year period.

(4) health services, except home health services, which are offered in or through a health care facility or HMO and which were not offered on a regular basis in or through such health care facility or HMO within the twelve month period prior to the time such services would be offered.

(b)(1) Any expenditure by or on behalf of a health care facility or HMO in excess of \$150,000 (or such lesser amount as the State may specify) made in preparation for the offering or development of a new institutional health service and any arrangement or commitment made for financing the offering or development of the new institutional health service shall be subject to review under this subpart, except that the health systems agency may not review expenditures for feasibility surveys for HMOs which are funded under section 1303 of the Act or expenditures for planning of HMOs which are funded under section 1304 of the Act. (2) Nothing in this subpart shall preclude a health systems agency from recommending that a State Agency grant a certificate of need which permits expenditures only for predevelopment activities, but does not authorize the offering or development of the new institutional health service with respect

to which such predevelopment activities are proposed. Expenditures in preparation for the offering of a new institutional health service shall include expenditures for architectural designs, plans, working drawings, and specifications. Such expenditures may also include those for site acquisition and preliminary plans, studies, and survey, if these are included by the State Agency in its definition of predevelopment activities, but may not include expenditures for HMO activities described in subparagraph (1) of this paragraph.

§ 122.305 Adoption and public notice of review procedures and criteria.

(a) Each health systems agency shall adopt and review and revise as necessary, review procedures and criteria in accordance with the requirements of this subpart prior to its review of new institutional health services and in accordance with its Designation Agreement.

(b) Before adopting the review procedures and criteria required by this subpart or any revisions of such procedures and criteria, the health systems agency shall give interested persons an opportunity to offer written comments on the procedures and criteria, or any revisions thereof, which it proposes to adopt, as follows:

(1) The health systems agency shall distribute copies of its proposed review procedures and criteria, and proposed revisions thereof, to the agencies, institutions and associations with which the agency must coordinate its activities pursuant to section 1513(d) of the Act and its designation agreement, to units of general local government within its health service area, to the State Agency and Statewide Health Coordinating Council of each State in which all or any part of the agency's health service area is located, and to health systems agencies designated for contiguous health service areas, and to any agency which establishes rates for health care facilities or HMOs in its health service area.

(2) The health systems agency shall publish, in one or more newspapers of general circulation in its health services area, a notice stating that review procedures and criteria, or revisions thereof, have been proposed for adoption and are available at specified addresses for inspection and copying by interested persons.

(3) A health systems agency may request from the Secretary an exception to the requirement of § 122.305(b)(2). Such request shall be in writing, shall contain a detailed explanation of the

reasons for the request and of the substitute publication procedures that the agency intends to follow if the exception is approved. The Secretary may grant such an exception if he determines that the proposed substitute procedures are less costly or more effective and do not adversely and substantially affect the rights of persons affected by the subject reviews.

(c) Each health systems agency shall distribute copies of its adopted review procedures and criteria, and any revisions thereof, to the agencies and organizations specified in paragraph (b)(1) of this section and to the Secretary, and shall provide such copies to other persons upon request.

§ 122.306 Procedures for health systems agency review.

(a) The procedures adopted and utilized by a health systems agency for conducting the reviews covered by this subpart shall include at least the following:

(1) Written notification to affected persons of the beginning of a review, which shall include notification of the proposed schedule for a review, of the period within which a public hearing during the course of the review may be requested by persons directly affected by the review as defined in paragraph (a)(7) of this section, and of the manner in which notification will be provided of the time and place of any hearing so requested. For purposes of this subparagraph, "affected persons" include, at a minimum, the person whose proposal is being reviewed, the State Agency for each State in which all or any part of the agency's health service area is located, health systems agencies serving contiguous health service areas, health care facilities and HMOs located in the health service area which provide institutional health services, any agency which establishes rates for health care facilities or HMOs in its health service area, and those members of the public who are to be served by the proposed institutional health services. For purposes of this subparagraph, the date of "notification" is the date on which the notice is sent or the date on which the notice appears in a newspaper of general circulation, whichever is later. Written notification to members of the public may be provided through newspapers of general circulation in the area and public information channels; notification to all other affected persons shall be by mail (which may be as part of a newsletter).

(2)(i) With respect to reviews of proposed new institutional health services pursuant to section 1513(f) of

the Act, schedules for reviews which provide that no such review shall take longer than the period specified in accordance with 42 CFR 123.407(a)(2) by the State Agency of the State in which the new institutional health service is proposed to be offered or developed, except that in the case of reviews under section 1122 of the Social Security Act, schedules for reviews shall be in accordance with 42 CFR 100.106, which govern the State Agency's procedures for review under section 1122 agreements.

(ii) With respect to other reviews of proposed health services, schedules for reviews which provide that no review shall, to the extent practicable, take longer than 90 days from the date of notification made in accordance with paragraph (a)(1) of this section to the date of the written findings made in accordance with paragraph (a)(5) of this section.

(3) Provision for persons subject to a review to submit to the health systems agency in such form and manner, and containing such information, as the agency shall prescribe and publish, such information as the agency may require concerning the subject of such review. Such information requirements may vary according to the purpose for which a particular review is being conducted or the type of health service being reviewed; *Provided*, That the health systems agency may require no information of a person subject to a review which is not prescribed and published as being required.

(4) Submission of periodic reports by providers of health services and other persons subject to health systems agency review under this subpart respecting the development of proposals subject to review.

(5) Provision for written finds (including, as appropriate, the findings required under §§ 122.309 and 122.310) which state the basis for any final decision or recommendation made by the health systems agency. The health systems agency may make its recommendations conditional if the established State program does not prohibit such a procedure. Such findings shall be sent to the person proposing the new institutional health service and to the State Agency for the State in which the new institutional health service is proposed to be offered or developed, and shall be available to others upon request. In the case of a new institutional health service proposed by an HMO, these written findings shall also be sent to the appropriate Regional Office of the Department of Health, Education, and Welfare at the time

these are sent to the person proposing the new institutional health service.

(6) Notification, upon request, of providers of health services and other persons subject to health systems agency review under this subpart of the status of the agency review of the proposals subject to review, findings made in the course of such review, and other appropriate information respecting such review.

(7) Provision for public hearing in the course of agency review if requested by one or more persons directly affected by the review. The agency must provide for a reasonable period from the date of written notification of the beginning of a review (see paragraph (a)(1) of this section) within which a public hearing during the course of the review may be requested by persons directly affected by the review. The agency may not impose fees for such a hearing. For purposes of this subparagraph, "persons directly affected" by the review include, at a minimum, the person whose proposal is being reviewed; members of the public who are to be served by the proposed new institutional health services; health care facilities and HMOs located in the health service area of the agency which provides services similar to the proposed services under review; health care facilities and HMOs which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide such similar services in the future, either through the filing of a letter of intent or by adoption of a plan; and any agency which establishes rates for health care facilities or HMOs located in the health service area in which the service is proposed to be offered or developed. Where such a hearing is requested, the agency shall, prior to such hearing, provide notice of such hearing, in accordance with its procedure adopted pursuant to paragraph (a)(1) of this section. The procedure for a hearing must provide an opportunity for any person to present testimony.

(8) Provision, that any person may, for good cause shown, request in writing a public hearing for purposes of reconsideration of a health systems agency decision. The agency may not impose fees for such a hearing. For purposes of this subparagraph, an agency recommendation pursuant to section 1513(f) is not a decision. A request for a public hearing shall be deemed by the health systems agency to have shown good cause if it (i) present significant relevant information not previously considered by the health systems agency, (ii) demonstrates that

there have been significant changes in factors or circumstances relied upon by the health systems agency in reaching its decision, (iii) demonstrates that the health systems agency has materially failed to follow its adopted procedures in reaching its decision, or (iv) provides such other basis for a public hearing as the health systems agency determines constitutes good cause. To be effective, a request for such a hearing shall be received within 30 days of the health systems agency decision, and the hearing shall commence within 30 days after the receipt of the request; except that where any different time period for such procedures are established by State law governing the practices and procedures of the health systems agency, the latter shall govern. Notification of such a public hearing shall be sent, prior to the date of the hearing, to the person requesting the hearing and to the person proposing the new health service, and shall be sent to others upon request. The health systems agency shall make written findings which state the basis for its decision within 45 days after the conclusion of such hearing, except that where any different time period is required by State law governing the practices and procedures of administrative agencies, the latter shall govern. A decision of the health systems agency following a public hearing under this subparagraph shall be considered a decision of the health systems agency for purposes of subparagraphs (5), (6), and (9) of this paragraph.

(9) Preparation and publication, at least annually, of reports by the health systems agency of the reviews being conducted (including a statement concerning the status of each such review) and of the reviews completed by the agency since the publication of the last report and a general statement of the findings and decisions made in the course of such reviews.

(10) Access by the general public to all applications reviewed by the health systems agency and to all other written materials pertinent to any agency review.

(11) In the case of construction projects, submission to the health systems agency by the persons proposing such projects of letters of intent in such detail and in such form as may be necessary to inform the agency of the scope and nature of the projects at the earliest possible opportunity in the course of planning of such construction projects.

(b) Procedures adopted for reviews in accordance with paragraph (a) of this section may vary according to the

purpose for which a particular review is being conducted or the type of health service being reviewed.

(c) The procedures shall provide that the requirements of Paragraph (a)(1) of this section shall be deemed satisfied if the State Agency, in providing notice of the beginning of the review in accordance with 42 CFR 123.407(a)(1), provides the information described in paragraph (a)(1) of this section.

(d) The Procedures may provide that the requirements of subparagraphs (3), (4), or (11) of paragraph (a) of this section shall be deemed satisfied if the State Agency has provided for the corresponding procedure found at 42 CFR 123.407(a) (3), (4), or (14).

§ 122.307 Exceptions to use of procedures.

After following the procedure set forth in § 122.305(b), an agency may, with respect to any type or group of reviews, request from the Secretary an exception to the requirement of § 122.303 that it utilize review procedures which meet the requirements of § 122.306. Such request shall be in writing, shall contain a detailed explanation of the reasons for the request and of the substitute review procedures that the agency intends to follow if the exception is approved, and shall be accompanied by copies of all written comments submitted under § 122.305(b) to the agency with respect to the request for an exception. The Secretary may grant such an exception if he determines that the proposed substitute procedures are less costly or more effective, are consistent with the purposes of the Act, and do not adversely and substantially affect the rights of persons affected by the subject review. The health systems agency shall distribute copies of substitute procedures approved by the Secretary in accordance with the requirements of § 122.305(c).

§ 122.308 Criteria for health systems agency review.

(a) The health systems agency shall adopt, and utilize as appropriate, specific criteria for conducting the reviews covered by this subpart. The criteria shall include at least the general considerations listed below, but in the case of HMOs for which assistance may be provided under Title XIII except for HMO proposals subject to § 122.310(c)(1) the considerations shall be limited to those set forth in subparagraph (10).

(1) The relationship of the health services being reviewed to the applicable health systems plan and annual implementation plan adopted

pursuant to section 1513(b) (2) and (3), respectively, of the Act.

(2) The relationship of services reviewed to the long-range development plan (if any) of the person providing or proposing such services.

(3)(i) The need that the population served or to be served has for the services proposed to be offered or expanded, and the extent to which low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups are likely to have access to those services.

(ii) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the need that the population presently served has for the service, the extent to which that need will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups to obtain needed health care.

(4) The availability of less costly or more effective alternative methods of providing the services to be offered, expanded, reduced, reallocated, or eliminated.

(5) The immediate and long-term financial feasibility of the proposal, as well as the probable impact of the proposal on the costs of and charges for providing health services by the person proposing the new institutional health service.

(6) The relationship of the services proposed to be provided to the existing health care system of the area in which such services are proposed to be provided.

(7) The availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of the services proposed to be provided and the availability of alternative uses of such resources for the provision of other health services.

(8) The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services.

(9) The special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professions schools,

multidisciplinary clinics and specialty centers.

(10) The special needs and circumstances of HMOs for which assistance may be provided under Title XIII of the Act. Such needs and circumstances shall be limited to:

(i) The needs of enrolled members and reasonably anticipated new members of the HMO or proposed HMO for the new institutional health service proposed to be provided by the organization.

(ii) The availability of the new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO or proposed HMO. In assessing the availability of these health services from non-HMO providers, the agency shall consider only whether the services from these providers:

(A) Would be available under a contract of at least five years duration;

(B) Would be available and conveniently accessible through physicians and other health professionals associated with the HMO or proposed HMO. (For example—whether physicians associated with the HMO have or will have full staff privileges at a non-HMO hospital);

(C) Would cost no more than if the services were provided by the HMO; and

(D) Would be available in a manner which is administratively feasible to the HMO or proposed HMO.

(iii) Any other factors which the health systems agency may propose and the Secretary may, in accordance with paragraph (c) of this section, find to be consistent with the purpose of Title XIII of the Act.

(11) The special needs and circumstances of biomedical and behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

(12) In the case of a construction project—

(i) the costs and methods of the proposed construction, including the costs and methods of energy provision, and

(ii) The probable impact of the construction project reviewed on the costs of providing health services by the person proposing such construction project.

(13) The contribution of the proposed new institutional health service in meeting the health related needs of members of medically underserved groups and groups which have traditionally experienced difficulties in obtaining equal access to health

services (for example, low income persons, racial and ethnic minorities, women, and handicapped persons), particularly those needs identified in the applicable health systems plan and annual implementation plan as deserving of priority.

(14) The special circumstances of health care facilities and HMOs with respect to the need for conserving energy.

(b) Criteria adopted for reviews in accordance with paragraph (a) of this section may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed.

(c) Where a health systems agency proposed under paragraph (a)(10)(iii) of this section that it be permitted to base its reviews of HMOs on criteria which consider factors not set forth in paragraph (a)(10) of this section, it shall do so in a written request to the Secretary, specifying the reasons for the proposal. The Secretary will approve the request if he finds the additional factors to be consistent with the purpose of Title XIII of the Act. Unless the Secretary has approved the additional factors, the health systems agency shall base its review solely on the factors set forth in paragraph (a)(10) of this section.

§ 122.309 Inpatient facilities; required findings.

In the case of any proposed new institutional health service for the provision of health services to inpatients except for inpatient proposals subject to § 122.310(c)(2), a health systems agency shall not recommend that a State grant a certificate of need under its certificate of need program, or otherwise make a finding that such proposed new institutional health service is needed, unless, (a) the health systems agency makes written findings as to (1) the efficiency and appropriateness of the use of existing inpatient facilities providing inpatient services similar to those proposed; and (2) the capital and operating costs (and their potential impact on patient charges), efficiency, and appropriateness of the proposed new institutional health services; and (b) the health systems agency makes each of the following findings in writing:

(1) That superior alternatives to such inpatient services in terms of cost, efficiency, and appropriateness do not exist and that the development of such alternatives is not practicable.

(2) That in the case of new construction, alternatives to new construction (e.g., modernization or sharing arrangements) have been

considered and have been implemented to the maximum extent practicable;

(3) That patients will experience serious problems in terms of cost, availability, or accessibility, or such other problems as may be identified by the reviewing agency, in obtaining inpatient care of the type proposed in the absence of the proposed new service.

(4) That in the case of a proposal for the addition of beds for the provision of skilled nursing or intermediate care, the relationship of the addition to the plans of agencies of the State responsible for providing and financing long-term care (including home health services) has been considered.

§ 122.310 Health maintenance organizations; required finding[s].

(a) In the case of any new institutional health service proposed to be provided by or through an HMO, a health systems agency shall not recommend that a State Agency deny a certificate of need with respect to such service (or otherwise make a finding under this subpart that such service is not needed); (1) in those cases (i) when the State Agency has granted a certificate of need which authorized the development of the service, or expenditures in preparation for such offering or development (or has otherwise made a finding that such development or expenditure is needed), and (ii) when the offering of this new institutional health service will be consistent with the basic objectives, time schedules, and plans of the previously approved application, or (2) solely because there is an HMO of the same type, as specified in section 1310(b) of the Act, in the same area, or solely because the services being reviewed are not discussed in the applicable health systems plan, annual implementation plan, State health plan, or State medical facilities plan.

(b) In the case of any new institutional health service proposed to be provided by or through an HMO for which assistance may be provided under Title XIII of the Act, a health systems agency shall not recommend that a State Agency deny a certificate of need with respect to the service

(1) Unless the health systems agency determines that the service is:

(i) Not needed by the enrolled or reasonably anticipated new members of the HMO or proposed HMO or;

(ii) Available from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO, in accordance with § 122.308(a)(10)(ii), or

(2) Unless the health systems agency determines that the service is not needed under criteria based on factors which the Secretary has approved in accordance with § 122.308(c).

(c) In the case of a new institutional health service which is proposed to be provided by or through an HMO for which assistance may be provided under Title XIII of the Act and which consists of (or includes) the construction, development or establishment of a new inpatient health care facility, a health systems agency shall determine whether utilization of the facility by members of the applicant will account for at least 75 percent of the projected annual inpatient days, as determined in accordance with the recommended occupancy levels under the applicable health systems plan, and: (1) where the agency determines that these members will account for less than 75 percent of these patient days, it shall review the proposal in accordance with the provisions of § 122.308(a) and § 122.309, and (2) where the agency determines that these members will account for at least 75 percent of these patient days, it shall review the proposal in accordance with the provisions of § 122.310(b).

PART 123—STATE HEALTH PLANNING AND DEVELOPMENT AGENCIES

2. Part 123 of Title 42, CFR, is amended by revising Subpart E to read as follows:

Subpart E—Certificate of Need and Review of New Institutional Health Services

- 123.401 Definitions.
- 123.402 Purpose and applicability.
- 123.403 General.
- 123.404 New institutional health services subject to review.
- 123.405 Enforcement.
- 123.406 Adoption and public notice of review procedures and criteria.
- 123.407 Procedure for State Agency review.
- 123.408 Exceptions to use of procedures.
- 123.409 Criteria for State Agency review.
- 123.410 Inpatient facilities; required findings.
- 123.411 Health maintenance organizations; required finding.

Authority: Sec. 215, 58 Stat. 690 (42 U.S.C. 216); secs. 1523, 1532 of the Public Health Service Act, 38 Stat. 2246, 2251.

§ 123.401 Definitions.

In addition to the terms defined in subpart A of this Part, as used in this subpart:

The term "to develop," when used in connection with health services, means to undertake those activities which on their completion will result in the offering of a new institutional health

service or the incurring of a financial obligation, as defined under applicable State law, in relation to the offering of such a service.

The term "health care facility" is defined under section 1531(5) of the Act to have the same meaning as such term has in regulations prescribed under section 1122 of the Social Security Act. Such regulations (42 CFR 100.102(e)) define the term "health care facility" as including hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers, including freestanding hemodialysis units, intermediate care facilities, and ambulatory surgical facilities, but does not include Christian Science sanatorium operated, or listed and certified by the First Church of Christ Scientist, Boston, Massachusetts. Such regulations also provide that:

(1) The term "hospital" means an institution which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. Such term does not include psychiatric and tuberculosis hospitals.

(2) The term "psychiatric hospital" means an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons.

(3) The term "tuberculosis hospital" means an institution which is primarily engaged in providing to inpatients, by or under the supervision of a physician, medical services for the diagnosis and treatment of tuberculosis.

(4) The term "skilled nursing facility" means an institution or a distinct part of an institution which is primarily engaged in providing to inpatients skilled nursing care and related services for patients who require medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

(5) The term "intermediate care facility" means an institution which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or skilled nursing facility is designed to provide, but who because of their mental or physical condition require health related care and services (above the level of room and board).

(6) The term "ambulatory surgical facility" means a facility, not a part of a

hospital, which provides surgical treatment to patients not requiring hospitalization. Such term does not include the offices of private physicians or dentists, whether for individual or group practice.

The term "health maintenance organization" or "HMO" is defined under section 1531(5) of the Act to have the same meaning as such term has in regulations prescribed under section 1122 of the Social Security Act. Such regulations (42 CFR 100.102) define the term "HMO" to mean a public or private organization, organized under the laws of any State, which:

(1) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: Usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out-of-area coverage;

(2) Is compensated (except for copayments) for the provision of the basic health care services listed in paragraph (c)(1) of this section to enrolled participants on a predetermined periodic rate basis; and

(3) Provides physicians' services primarily (i) directly through physicians who are either employees or partners of such organization, or (ii) through arrangements with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

The term "HMO for which assistance may be provided under Title XIII" means an HMO which is qualified under section 1310(d) of the Act or a HMO which the Secretary determines, upon the basis of an application and the submission of any information and assurances which he finds necessary, may be eligible for assistance under Title XIII of the Act.

The term "health services" means clinically related (i.e., diagnostic, treatment, or rehabilitative) services, and includes alcohol, drug abuse, and mental health services.

The term "institutional health services" means health services provided in or through health care facilities or HMOs and includes the entities in or through which such services are provided.

The term "to offer," when used in connection with health services, means that the health care facility or HMO holds itself out as capable of providing or as having the means for the provision of specified health services.

The term "person" means an individual, a trust or estate, a partnership, a corporation (including

associations, joint stock companies, and insurance companies) a State, or a political subdivision or instrumentality (including a municipal corporation) of a State.

§ 123.402 Purpose and applicability.

(a)(1) Section 1523(a)(4)(B) of the Public Health Service Act requires each State health planning and development agency to administer a State certificate of need program which applies to new institutional health services proposed to be offered or developed within the State and which is satisfactory to the Secretary. The purpose of this subpart is to set forth the requirements and standards that a State certificate of need program must meet in order for the Secretary to find it satisfactory. A State certificate of need program may include additional provisions not inconsistent with the requirements of this subpart.

(2) Section 1523(a)(5) of the Act requires each State Agency, after consideration of recommendations submitted by health systems agencies under section 1513(f) of the Act and 42 CFR Part 122, Subpart D, to make findings as to the need for new institutional health services proposed to be offered within the State. This subpart also sets forth the requirements and standards for State reviews under section 1523(a)(5).

(3) Section 1532(a) of the Act requires that in performing its review functions under section 1523 of the Act (which include reviews conducted pursuant to section 1523(a) (4)(B) and (5)), each State Agency shall (except to the extent approved by the Secretary) follow procedures and apply criteria developed and published by the State Agency in accordance with regulations of the Secretary. This subpart sets forth requirements respecting such procedures and criteria.

(b) The regulations of this subpart are applicable to State certificate of need programs under section 1523(a)(4)(B) of the Act and, except for § 123.405 (Enforcement), to reviews for purposes of making findings as to the need for new institutional health services to be offered within a State under section 1523(a)(5) of the Act.

§ 123.403 General.

(a) Each state health planning and development agency shall (1) administer within the State a certificate of need program meeting the requirements of this subpart; *Provided*, that this requirement shall not apply to a State Agency of a State until the expiration of the first regular session of the legislature

of the State which begins after January 4, 1975; and

(2) Make findings as to the need for new institutional health services proposed to be offered or developed in the State, in accordance with the applicable requirements of this subpart.

(b) The State Agency shall consider recommendations made by health systems agencies under section 1513(f) of the Act and in accordance with 42 CFR Part 122, Subpart D, in reviewing any proposed new institutional health service under this subpart.

(c) Except as provided in § 123.408, each State Agency shall adopt and utilize review procedures and criteria which meet the requirements of § 123.407 and § 123.409, respectively, when conducting reviews of new institutional health services. The public shall be given notice of such review procedures and criteria in accordance with the requirements of § 123.406. In addition, in the case of any proposed new institutional health service for the provision of health services to inpatients, the State Agency shall comply with the requirements of § 123.410; in the case of any new institutional health service proposed for "an" HMO the State Agency shall comply with the requirements of § 123.411.

§ 123.404 New institutional health services subject to review.

(a) All new institutional health services proposed to be offered or developed within the State by any person shall be subject to review under this subpart. For purposes of this subpart, "new institutional health services" shall include:

(1) The construction, development, or other establishment of a new health care facility or HMO;

(2) Any expenditure by or on behalf of a health care facility or HMO in excess of \$150,000 (or such lesser amount as the State may specify) which, under generally accepted accounting principles consistently applied, is a capital expenditure; except that this subpart shall not apply to expenditures for (i) site acquisitions; (ii) acquisitions of existing health care facilities and HMO's or (iii) expenditures solely for the termination or reduction of beds or of a health service; unless included by the State in its scope of coverage. Where a person makes an acquisition by or on behalf of a health care facility or HMO under lease or comparable arrangement, or through donation, which would have required review if the acquisition had been by purchase, such acquisition shall

be deemed a capital expenditure subject to review.

(3) A change in bed capacity of a health care facility or HMO which increases the total number of beds (or distributes beds among various categories, or relocates such beds from one physical facility or site to another) by more than 10 beds or more than 10 percent of total bed capacity as defined by the State, whichever is less, over a two-year period.

(4) Health services, except home health services, which are offered in or through a health care facility or HMO and which were not offered on a regular basis in or through such health care facility or HMO within the twelve month period prior to the time such services would be offered.

(b)(1) Any expenditure by or on behalf of a health care facility or HMO in excess of \$150,000 (or such lesser amount as the State may specify) made in preparation for the offering or development of a new institutional health service and any arrangement or commitment made for financing the offering or development of the new institutional health service shall be subject to review under this subpart, except that the State Agency may not review expenditures for feasibility surveys for HMOs which are funded under section 1303 of the Act or expenditures for planning of HMOs which are funded under section 1304 of the Act.

(2) Nothing in this subpart shall preclude a State Agency from granting a certificate of need which permits expenditures only for predevelopment activities, but does not authorize the offering or development of the new institutional health service with respect to which such predevelopment activities are proposed.

(3) Expenditures in preparation for the offering of a new institutional health service shall include expenditures for architectural designs, plans, working drawings, and specifications. Such expenditures may also include those for site acquisition and preliminary plans, studies, and surveys, if these are included by the State Agency in its definition of predevelopment activities, but may not include expenditures for HMO activities described in subparagraph (1) of this paragraph.

(c) Prior to its review of new institutional health services, each State Agency shall disseminate to all health care facilities and HMO's within the State, and shall publish in one or more newspapers of general circulation in the State, a description of the scope of coverage of its program for review of

new institutional health services. Such description shall include, at a minimum, the coverage required by paragraphs (a) and (b) of this section. Whenever the scope of such coverage is revised, the State Agency shall disseminate and publish a revised description thereof.

§ 123.405 Enforcement.

(a) The State certificate of need program shall provide (1) that only those new institutional health services which are found by the State Agency to be needed shall be granted certificates of need, (2) that only those new institutional health services which are granted certificates of need shall be offered or developed within the State, (3) that no expenditures in excess of \$150,000 (or such lesser amount as the State may specify) in preparation for the offering or development of a new institutional health service shall be made by any person unless a certificate of need for such services or expenditures has been granted; and (4) that no arrangement or commitment for financing the offering or development of the new institutional health service shall be made by any person, unless a certificate of need for such arrangement or commitment has been granted.

(b) The State certificate of need program shall provide sanctions, such as the denial or revocation of a license to operate, civil or criminal penalties, or injunctive relief, which the Secretary finds sufficient to assure compliance with the provisions of paragraph (a) of this section.

§ 123.406 Adoption and public notice of review procedures and criteria.

(a) Each State Agency shall adopt, and review and revise as necessary, review procedures and criteria in accordance with the requirements of this subpart prior to its review of new institutional health services, and in accordance with its Designation Agreement.

(b) Before adopting the review procedures and criteria required by this subpart or any revisions of such procedures and criteria, the State Agency shall give interested persons an opportunity to offer written comments on the procedures and criteria, or any revisions thereof, which it proposes to adopt, as follows:

(1) The State Agency shall distribute copies of its proposed review procedures and criteria, and proposed revisions thereof, to Statewide health agencies and organizations, the Statewide Health Coordinating Council, and each health systems agency for a health service area located in whole or

in part within the State, and any agency which establishes rates for health care facilities or health maintenance organizations in the State.

(2) The State Agency shall publish, in one or more newspapers of general circulation in the State, a notice stating that review procedures and criteria, or revisions thereof, have been proposed for adoption and are available at specified addresses for inspection and copying by interested persons.

(3) A State agency may request from the Secretary an exception to the requirement of § 123.406(b)(2). Such request shall be in writing, shall contain a detailed explanation of the reasons for the request and of the substitute publication procedures that the agency intends to follow if the exception is approved. The Secretary may grant such an exception if he determines that the proposed substitute procedures are less costly or more effective and do not adversely and substantially affect the rights of persons affected by the subject reviews.

(c) Each State Agency shall distribute copies of its adopted review procedures and criteria, and any revisions thereof, to the agencies and organizations specified in paragraph (b)(1) of this section and to the Secretary, and shall provide such copies to other persons upon request.

§ 123.407 Procedures for State Agency review.

(a) The procedures adopted and utilized by a State Agency for conducting the reviews covered by this subpart shall include at least the following:

(1) Written notification to affected persons of the beginning of a review, which shall include notification of the proposed schedule for the review, of the period within which a public hearing during the course of the review may be requested by persons directly affected by the review as defined in paragraph (a)(7) of this section, and of the manner in which notification will be provided of the time and place of any hearing so requested. For purposes of this subparagraph, "affected persons" include, at a minimum, the person whose proposal is being reviewed, the health systems agency for the health service area in which the proposed new institutional health service is to be offered or developed, health systems agencies serving contiguous health systems areas, health care facilities and health maintenance organizations located in the health service area which provide institutional health services, any agency which establishes rates for

health care facilities or health maintenance organizations in the State, and those members of the public who are to be served by the proposed new institutional health services. For purposes of this subparagraph, the date of "notification" is the date on which the notice is sent or the date on which the notice appears in a newspaper of general circulation, whichever is later. Written notification to members of the public may be provided through newspapers of general circulation in such area and public information channels; notification to all other affected persons shall be by mail (which may be as part of a newsletter).

(2) Schedules for reviews which provide that no review shall, to the extent practicable, take longer than 90 days from the date that notification is sent to all affected persons to the date of the written findings made in accordance with paragraph (a)(5) of this section: *Provided*, That in the case of a review of a new institutional health service proposed by a health maintenance organization, no review shall take longer than 90 days from the date an application providing the information required under paragraph (a)(3) of this section is received. The State Agency shall adopt criteria for determining when it would not be practicable to complete a review within 90 days. Where a proposed new institutional health service is to be provided in a health service area for which a health systems agency has been designated, such schedule shall set forth the period within which the health systems agency must complete its review under section 1513(f) of the Act and 42 CFR Part 122, subpart D, and provide its recommendation with respect to such new service to the State Agency: *Provided*, That the period allotted by the State Agency to the health systems agency for completion of its review and submission of its recommendations may not be less than 60 days, except with the written consent of the health systems agency, but in the case of reviews of new institutional health services proposed by a health maintenance organization, the State Agency may not extend the length of a health systems agency review beyond 60 days from the date the application is received.

(3) Provision for persons subject to a review to submit to the State Agency in such form and manner, and containing such information as the State agency shall prescribe and publish, such information as the State Agency may require concerning the subject of such review. Such information requirements may vary according to the purpose for

which a particular review is being conducted or the type of health service being reviewed; *Provided*, That the State Agency may require no information of a person subject to review which is not prescribed and published as being required.

(4) Submission of periodic reports by providers of health services and other persons subject to State Agency review under section 1523 (a)(4)(B) and (a)(5) of the Act respecting the development of proposals subject to review under this subpart.

(5) Provision for written findings (including, as appropriate, the required findings under §§ 123.410 and 123.411) which state the basis for any final decision made by the State Agency. The State Agency may make its final decision conditional if the established State program provides for such a procedure. Such findings shall be sent to the person proposing the new institutional health service and to the health systems agency for the health service area in which the new service is proposed to be offered or developed, and shall be available to others upon request. In the case of a new institutional health service proposed by an HMO, these written findings shall also be sent to the appropriate Regional Office of the Department of Health, Education, and Welfare at the time these are sent to the person proposing the new institutional health service.

(6) Notification, upon request, of providers of health services and other persons subject to review under this subpart of the status of the State Agency review of new institutional health services subject to review, findings made in the course of such review, and other appropriate information respecting such review.

(7) Provision for a public hearing in the course of agency review if requested by one or more persons directly affected by the review. The agency must provide for a reasonable period from the date of written notification of the beginning of a review (see paragraph (a)(1) of this section) within which a public hearing during the course of the review may be requested by persons directly affected by the review. The agency may not impose fees for such a hearing.

(i) For purpose of this subparagraph, "persons directly affected" by the review include, at a minimum, the person whose proposal is being reviewed, members of the public who are to be served by the proposed new institutional health services; health care facilities and HMOs located in the health service area in which the service is proposed to be offered or developed.

which provide services similar to the proposed services under review; health care facilities and HMOs which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide such similar services in the future; and any agency which establishes rates for health care facilities or HMOs located in the health service area in which the service is proposed to be offered or developed. Where such a hearing is requested, the State Agency shall, prior to such hearing, provide notice of such hearing, in accordance with its procedure adopted pursuant to paragraph (a)(1) of this section. The procedure for the hearing must provide an opportunity for any person to present testimony.

(ii) Although paragraph (c) of this section provides that the requirement of this paragraph is satisfied if the appropriate health systems agency has provided for the corresponding procedure found at 42 CFR 122.306(a)(7), in the event that a person qualifying under the State Agency definition of "directly affected" is not provided an opportunity for a public hearing by the health system agency, due to a difference in that agency's definition of "directly affected persons", the State Agency must provide an opportunity for a public hearing.

(8) Provision that any person may, for good cause shown, request in writing a public hearing for purposes of reconsideration of a State Agency decision, and procedures for such a hearing. The agency may not impose fees for such a hearing. For purposes of this subparagraph, a request for a public hearing shall be deemed by the State Agency to have shown good cause if it (i) presents significant relevant information not previously considered by the State Agency, (ii) demonstrates that there have been significant changes in factors or circumstances relied upon by the State Agency in reaching its decision, (iii) demonstrates that the State Agency has materially failed to follow its adopted procedures in reaching its decision, or (iv) provides such other bases for a public hearing as the State Agency determines constitutes good cause. To be effective, a request for such a hearing shall be received within 30 days of the State Agency decision, and the hearing shall commence within 30 days of receipt of the request, except that where any different time periods for such procedures are established by State law governing the practices and procedures of administrative agencies, the latter shall govern. Notification of such a

public hearing shall be sent, prior to the date of the hearing, to the person requesting the hearing, the person proposing the new institutional health service, and the health systems agency for the health service area in which they new institutional health service is proposed to be offered or developed, and shall be sent to others upon request. The State Agency shall make written findings which state the basis for its decision within 45 days after the conclusion of such hearing, except that where any different time period is required by State law governing the practices and procedures of administrative agencies, the latter shall govern. A decision of the State Agency following a public hearing under this subparagraph, shall be considered a decision of the State Agency for purposes of subparagraphs (5), (6), (9), (10), (11), and (12) of this paragraph.

(9) Provision that if the State Agency makes a decision regarding a proposed new institutional health service which is inconsistent with a recommendation made with respect thereto by the health systems agency making such recommendation pursuant to 42 CFR 122.107(c)(14), the State Agency shall submit to such health systems agency a written, detailed statement of the reasons for the inconsistency. Such decision (and the record upon which it was made) shall, upon request of the health systems agency, be reviewed, under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies, by an agency of the State (other than the State Agency) designated by the Governor. To be effective, the health systems agency's request must be received within 30 days of the State Agency decision, and the review shall commence within 30 days of receipt of the request, except that where any different time periods for such procedures are established by State Law governing the practices and procedures of administrative agencies, the latter shall govern. The decision of the reviewing agency shall be made in writing within 45 days after the conclusion of such review, except that where any different time period is required by State law governing the practices and procedures of administrative agencies, the latter shall govern. These written findings shall be sent to the person proposing the new institutional health service, to the health system agency requesting the review, and to the State Agency, and shall be made available by the State Agency to others upon request. The decision of the reviewing agency shall be considered

the final decision of the State Agency; however, the reviewing agency may remand the matter to the State Agency for further action or consideration if applicable State law permits such remanding.

(10) Provision that any decision of the State Agency under this subpart (and the record upon which it was made) shall, upon request of the person proposing the new institutional health service, be reviewed, under an appeals mechanism consistent with State law governing the practices and procedures of administrative agencies, by an agency of the State (other than the State Agency) designated by the Governor. To be effective, the request of the person proposing the new institutional health service must be received within 30 days of the State Agency decision, and the review shall commence within 30 days of receipt of the request, except that where any different time periods for such procedures are established by State law governing the practices and procedures of administrative agencies, the latter shall govern. The decision of the reviewing agency shall be made in writing within 45 days after the conclusion of such review, except that where any different time period is required by State law governing the practices and procedures of administrative agencies, the latter shall govern. These written findings shall be sent to the person proposing the new institutional health service, the appropriate health systems agency, and to the State Agency, and shall be made available by the State Agency to others upon request. The decision of the reviewing agency shall be considered the final decision of the State Agency; however, the reviewing agency may remand the matter to the State Agency for further action or consideration if applicable State law permits such remanding.

(11) If a State Agency (or a reviewing agency, under subparagraph (a)(9) or (a)(10) of this section) makes a decision regarding a proposed new institutional health service which the State Agency determines is not consistent with the goals of the applicable health systems plan (established under section 1513(b)(2) of the Act) or the priorities of the applicable annual implementation plan (established under section 1513(b)(3) of the Act), the State Agency (or the reviewing agency, as appropriate) shall submit to the appropriate Health Systems Agency a written, detailed statement of the reasons for the inconsistency.

(12) Preparation and publication, at least annually, of reports by the State

Agency of the reviews being conducted (including a statement concerning the status of each such review) and of the reviews completed by the agency since the publication of the last report and a general statement of the findings and decisions made in the course of such reviews.

(13) Access by the general public to all applications reviewed by the State Agency and to all other written materials pertinent to any agency review.

(14) In the case of construction projects, submission to the State Agency by the persons proposing such projects of letters of intent in such detail as may be necessary to inform the agency of the scope and nature of the projects at the earliest possible opportunity in the course of planning of such construction projects.

(15) Provision that if the State Agency does not make a decision regarding a proposed new institutional health service within the period of time specified for State Agency review, a certificate of need shall not be issued.

(b) Procedures adopted for reviews in accordance with paragraph (a) of this section may vary according to the purpose for which a particular review is being conducted or the type of health service being reviewed.

(c) The procedures may provide that the requirements of paragraph (a) (3), (4), (7), or (14) of this section shall be deemed satisfied if the appropriate health systems agency has provided for the corresponding procedure found at 42 CFR 122.306(a) (3), (4), (7), or (11).

§ 123.408 Exceptions to use of procedures.

After following the procedure set forth at § 123.406(b), a State Agency may, with respect to any type or group or reviews, request from the Secretary an exception to the requirement of § 123.403(c) that it utilize review procedures which meet the requirements of § 123.407. Such request shall be in writing, shall contain a detailed explanation of the reasons for the request and of the substitute review procedures that the agency intends to follow if the exception is approved, and shall be accompanied by copies of all written comments submitted under § 123.406(b) to the State Agency with respect to the request for an exception. The Secretary may grant such an exception if he determines that the proposed substitute procedures are less costly or more effective, are consistent with the purposes of the Act, and do not adversely and substantially affect the rights of persons affected by the subject

reviews. The State Agency shall distribute copies of substitute procedures approved by the Secretary in accordance with the requirements of § 123.406(c).

§ 123.409 Criteria for State agency review.

(a) The State Agency shall adopt, and utilize as appropriate, specific criteria for conducting the reviews covered by this subpart. The criteria shall include at least the following general considerations listed below, but in the case of HMOs for which assistance may be provided under Title XIII except for HMO proposals subject to § 123.411(c)(1), the considerations shall be limited to those set forth in subparagraph (10).

(1) The relationship of the health services being reviewed to the applicable health systems plan and annual implementation plan adopted pursuant to section 1513(b) (2) and (3), respectively, of the Act.

(2) The relationship of services reviewed to the long-range development plan (if any) of the person providing or proposing such services.

(3)(i) The need that the population served or to be served has for the services proposed to be offered or expanded, and the extent to which low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups are likely to have access to those services.

(ii) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the need that the population presently served has for the service, the extent to which that need will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups to obtain needed health care.

(4) The availability of less costly or more effective alternative methods of providing the services to be offered, expanded, reduced, relocated, or eliminated.

(5) The immediate and long-term financial feasibility of the proposal, as well as the probable impact of the proposal on the costs of and charges for providing health services by the person proposing the new institutional health service.

(6) The relationship of the services proposed to be provided to the existing health care system of the area in which

such services are proposed to be provided.

(7) The availability of resources (including health manpower, management personnel, and funds for capital and operating needs) for the provision of the services proposed to be provided and the availability of alternative uses of such resources for the provision of other health services.

(8) The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services.

(9) Special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. Such entities may include medical and other health professions schools, multidisciplinary clinics and specialty centers.

(10) The special needs and circumstances of HMOs for which assistance may be provided under title XIII of the Act. Such needs and circumstances shall be limited to:

(i) The needs of enrolled members and reasonably anticipated new members of the HMO or proposed HMO for the new institutional health services proposed to be provided by the organization.

(ii) The availability of the new health services from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO or proposed HMO. In assessing the availability of these health services from these providers, the agency shall consider only whether the services from these providers:

(A) Would be available under a contract of at least five years duration;

(B) Would be available and conveniently accessible through physicians and other health professionals associated with the HMO or proposed HMO (For example—whether physicians associated with the HMO have or will have full staff privileges at a non-HMO hospital);

(C) Would cost no more than if the services were provided by the HMO or proposed HMO; and

(D) Would be available in a manner which is administratively feasible to the HMO or proposed HMO.

(iii) Any other factors which the State Agency may propose and the Secretary may, in accordance with paragraph (c) of this section, find to be consistent with the purpose of Title XIII of the Act.

(11) The special needs and circumstances of biomedical and

behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

(12) In the case of a construction project—

(i) The costs and methods of the proposed construction, including the costs and methods of energy provision, and

(ii) The probable impact of the construction project reviewed on the costs of providing health services by the person proposing such construction project.

(13) The contribution of the proposed new institutional health service in meeting the health related needs of members of medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services (for example, low income persons, racial and ethnic minorities, women, and handicapped persons), particularly those needs identified in the applicable health systems plan and annual implementation plan as deserving of priority.

(14) The special circumstances of health care facilities and HMOs with respect to the need for conserving energy.

(b) Criteria adopted for reviews in accordance with paragraph (a) of this section may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed.

(c) Where a State Agency proposes under paragraph (a)(10)(iii) of this section that it be permitted to base its reviews of HMOs on criteria which consider factors not set forth in paragraph (a)(10) of this section, it shall do so in a written request to the Secretary, specifying the reasons for the proposal. The Secretary will approve the request if he finds the additional factors to be consistent with the purpose of Title XIII of the Act. Unless the Secretary has approved the additional factors, the State Agency shall base its review solely on the factors set forth in paragraph (a)(10) of this section.

§ 123.410 Inpatient facilities; required findings.

In the case of any proposed new institutional health service for the provision of health services to inpatients, except for inpatient proposals subject to § 123.411(c)(2), a State Agency shall not grant a certificate of need under its certificate of

need program, or otherwise make a finding that such proposed new institutional health service is needed, unless (a) the State Agency makes written findings as to: (1) the efficiency and appropriateness of the use of existing inpatient facilities providing inpatient services similar to those proposed; and (2) the capital and operating costs (and their potential impact on patient charges), efficiency, and appropriateness of the proposed new institutional health service; and

(b) the State Agency makes each of the following findings in writing:

(1) That superior alternatives to such inpatient services in terms of cost, efficiency, and appropriateness do not exist and that the development of such alternatives is not practicable.

(2) That in the case of new construction, alternatives to new construction (e.g., modernization or sharing arrangements) have been considered and have been implemented to the maximum extent practicable;

(3) That patients will experience serious problems in terms of cost, availability, or accessibility, or such other problems as may be identified by the reviewing agency, in obtaining inpatient care of the type proposed in the absence of the proposed new service, and

(4) That in the case of a proposal for the addition of beds for the provision of skilled nursing or intermediate care the relationship of the addition to the plans of other agencies of the State responsible for providing and financing long-term care (including home health services) has been considered.

§ 123.411 Health maintenance organizations; required findings.

(a) In the case of any new institutional health service proposed to be provided by or through an HMO, a State Agency shall not deny a certificate of need with respect to such service (or otherwise make a finding under this subpart that such service is not needed) (1) in those cases (i) when the State Agency has granted a certificate of need which authorized the development of the service, or expenditures in preparation for such offering or development (or has otherwise made a finding that such development or expenditure is needed), and (ii) when the offering of this new institutional health service will be consistent with the basic objectives, time schedules, and plans of the previously approved application: *Provided*, That the State Agency may

impose a limitation on the duration of the certificate of need which shall expire at the end of such time unless the health service is offered prior thereto, or (2) solely because there is an HMO of the same type, as specified in section 1310(b) of the Act, in the same area, or solely because the services being reviewed are not discussed in the applicable health systems plan, annual implementation plan, State health plan, or State medical facilities plan.

(b) In the case of any new institutional health service proposed to be provided by or through an HMO for which assistance may be provided under Title XIII of the Act, a State Agency shall not deny a certificate of need with respect to the service.

(1) Unless the State Agency determines that the Service is:

(i) Not needed by the enrolled or reasonably anticipated new members of the HMO or proposed HMO, or

(ii) Available from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO in accordance with § 123.409(a)(10)(ii), or

(2) Unless the State Agency determines that the service is not needed under criteria based on factors which the Secretary has approved in accordance with § 123.409(c).

(c) In the case of a new institutional health service which is proposed to be provided by or through an HMO for which assistance may be provided under Title XIII of the Act and which consists of (or includes) the construction, development or establishment of a new inpatient health care facility, the State Agency shall determine whether utilization of the facility by members of the applicant will account for at least 75 percent of the projected annual inpatient days, as determined in accordance with the recommended occupancy levels under the applicable health systems plan, and: (1) where the agency determines that these members will account for less than 75 percent of these patient days, it shall review the proposal in accordance with the provisions of § 123.409(a) and § 123.410, and (2) where the agency determines that these members will account for at least 75 percent of the patient days, it shall review the proposal in accordance with the provisions of § 123.411(b).

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Federal Register

Monday
April 2, 1979

Part V
Department of
Energy

**Solar in Federal Building Demonstration
Program**

**Proposed Rules and Notice of Public
Hearing**

DEPARTMENT OF ENERGY

[10 CFR Part 436]

Solar in Federal Buildings
Demonstration Program

AGENCY: Department of Energy.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Department of Energy proposes to establish a new Part 436 in Title 10 of the Code of Federal Regulations for rules governing programs to conserve Federal energy use and to promote consumption of renewable energy sources such as solar energy under the Energy Policy and Conservation Act, as amended, Executive Order 11912, as amended, and the National Energy Conservation Policy Act. Today's proposal specifically concerns rules to implement the Solar in Federal Buildings Demonstration Program under Title V, Part 2, of the National Energy Conservation Policy Act. These rules set forth requirements and procedures for the submission and content of Federal agency proposals, criteria for evaluation and selection of projects to be funded, transfer of funds for approved projects, for periodic reports with respect to the maintenance and operation of active and passive solar heating and solar heating and cooling demonstration projects in Federal buildings.

DATES: Written comments must be received by May 31, 1979. Requests to speak: By 4:30 p.m. e.s.t., April 9, 1979. Hearing Statements: By 4:30 p.m. e.s.t., April 16, 1979. Hearing date: 9:30 a.m. e.s.t., April 17, 1979.

ADDRESSES: Comments and requests to speak at the hearing to: Margaret W. Sibley, Office of Conservation and Solar Applications, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545. Hearing location: Federal Building, Room 3000A, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William A. Lemeschewsky, Office of Conservation and Solar Applications, Department of Energy, Room 2221 C, Massachusetts Avenue, N.W., Washington, D.C. 20545, (202) 376-9622. Margaret W. Sibley, Office of Conservation and Solar Applications, Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, (202) 376-1651.

Donald Creed, Office of Public Affairs, Department of Energy, Room 8F-078,

Washington, D.C. 20461, (202) 252-5806. Neal J. Strauss, Office of the General Counsel, Department of Energy, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545, (202) 376-9472. Billy Owens, Office of Policy and Evaluation, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6433.

SUPPLEMENTARY INFORMATION:

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I. Introduction

A. *General.* The Department of Energy (DOE) today gives notice of proposed rules for the program to demonstrate solar heating and solar heating and cooling technology in Federal buildings under Title V, Part 2, of the National Energy Conservation Policy Act (NECPA), 92 Stat. 3275. The proposed rules include requirements and procedures governing submission and content of proposals by Federal agencies, evaluation of proposals, transfer of funds for approved projects, and periodic reporting of maintenance and operation data. "Federal agencies" as included under 5 U.S.C. 105 and 5721(1)(B)-(H) are authorized to submit proposals.

These rules are proposed as Subpart D of a new Part 436 of Chapter II of Title 10 of the Code of Federal Regulations (10 CFR Part 436) which the DOE is proposing to establish for programs to conserve Federal energy use and promote consumption of renewable energy resources such as solar energy. DOE expects soon to propose other subparts for energy conservation programs for Federal buildings under section 381(a)(2) of the Energy Policy and Conservation Act, as amended, (EPCA) 42 U.S.C. 6361(a)(2) (1970),

section 10 of Executive Order 12003 (Executive Order) 42 FR 37523 (July 20, 1977), and Title V of NECPA. In addition to Subpart D, the subparts expected to be included in Part 436 are: Subpart A, which will contain a methodology and procedures for life cycle cost analyses; Subpart B, which will provide procedures for preliminary energy audits of Federal buildings; Subpart C, which will establish guidelines for building plans; and Subpart E, which will set forth methods for monitoring and assessing the performance and operation of photovoltaic solar electric systems installed in Federal buildings.

The provisions of Subpart A are intended to be used in the preparation and evaluation of proposals by Federal agencies to DOE for funding of solar demonstration projects under the subpart proposed today.

Today's proposal was developed in consultation with the General Services Administration (GSA), the Department of Defense (DOD), the Veterans Administration (VA), and the National Aeronautics and Space Administration (NASA), and other Federal agencies who provided advice, participated in interagency meetings, and reviewed drafts of the rules.

The objectives of this program are to support efforts to shift from non-renewable to renewable energy sources, to stimulate the solar industry, to encourage the continued development and refinement of solar technologies, and to assert the leadership role of the Federal Government in promoting widespread use of technically and economically feasible solar technologies.

The solar demonstration program authorized by the NECPA supplements the ongoing solar demonstration program begun by the Energy Research and Development Administration and transferred to DOE which has been directed toward demonstrations of technical and economic feasibility of solar heating and solar heating and cooling technologies. The experience gained in the administration of that program was taken into account in the development of today's proposal.

B. *Statutory Provisions.* The statutory provisions governing today's proposed rule are sections 522 and 523 of Title V, Part 2, of the NECPA.

Section 522 authorizes DOE to develop and carry out a program to demonstrate the application to Federal buildings of active and passive solar heating and solar heating and cooling technology. In so doing, DOE is required to consult with the GSA.

Section 523 directs DOE to issue the rules which are published in proposed form today. It requires DOE to establish a complete list of requirements for the content of Federal agency proposals for the design, acquisition, construction and installation of solar energy systems in Federal buildings under their control, as well as criteria by which the proposals submitted would be evaluated.

Section 523 provides for DOE to specify that each proposal contain at least the following: A list of the Federal buildings to be provided with solar energy equipment, the funds necessary for acquisition and installation, the proposed implementation schedule, maintenance costs, estimated savings in fossil fuels and electricity, estimated payback time, a life cycle cost analysis, and the "excess cost", if any, of the solar energy system if an alternative conventional non-energy system would minimize the life cycle cost of the Federal building. Section 523 authorizes DOE to require additional information consistent with the purposes of the legislation.

The criteria for evaluation specifically required or indicated by section 523 are—

- A complete analysis of the present value of the costs and benefits of the proposal.

- The extent to which the proposal represents innovative and diverse applications to a variety of types of Federal buildings.

- The proximity of demonstration projects to areas which have potential for development as a private sector market for solar energy equipment.

DOE is also authorized to specify other evaluation criteria.

Section 523 requires DOE to prepare a written evaluation of each proposal submitted, and to make such evaluation available to the agency or, upon request, to any person.

Finally, section 523 provides that DOE is to require Federal agencies to report periodically to it, with respect to the maintenance and operation of solar energy equipment installed in the Federal building with the technical and financial assistance provided by DOE pursuant to interagency agreements.

II. Content of Agency Proposals

Consistent with section 523, proposed §§ 436.74-436.77 require each participating Federal agency to provide DOE with four separate categories of information in its proposal. The four categories are General Program Information, General Project Information, Technical Information and Project Cost Information. The

requirements set forth in the proposed sections include and expand upon the minimum requirements of the NECPA for proposal content in order to elicit complete information to apply the evaluation criteria set forth in proposed § 436.78.

A. General Program Information.

Proposed § 436.74 requires each agency to include in its proposal such basic information as the address and telephone number of the Assistant Secretary or Assistant Administrator responsible for the implementation of a proposal approved under Subpart D, a format and schedule for the submission to DOE of status reports on progress, costs incurred and expenditures made, and other related data concerning the implementation of the program. The purpose of requiring this general program information is to identify the persons, organizations and monitoring systems available to support the implementation of the program, and to establish reporting procedures as a means of documenting the progress made and accounting for the dollars spent by a Federal agency in implementing its proposal under the rule.

In compliance with section 523 of the NECPA, the proposed rule would require a description of the projects in terms of the extent to which they represent "innovative and diverse application", as described above.

B. General Project Information.

Proposed § 436.75 requires each proposal to provide a list of Federal buildings in which projects are proposed which distinguishes between existing and new Federal buildings and to give basic information such as location. The term "Federal building" is defined by the NECPA as "any building or other structure owned in whole or in part by the United States or any Federal agency, including any such structure occupied by a Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation." That definition, which is set forth in the proposed rule, excludes complexes of buildings served by a central utility plant; however, projects could be proposed for individual Federal buildings in a complex.

For each Federal building listed, the proposed § 436.75 also requires detailed information to enable evaluation according to criteria of proposed § 436.78. For example, identification of building category is required for purposes of determining the degree of "replication," i.e., the extent to which

the proposed project would demonstrate the application of solar technology to a type of building which is similar to a significant number of buildings in the private sector. Information with respect to the size and location of the nearest city or town is required for the purpose of determining the geographical distribution of projects, as well as the proximity of each Federal building listed to areas which have a potential for development as a private sector market for solar energy equipment. Other factors, such as types of planned project publicity and number of visitors to the Federal building annually, if known, are required for purposes of ascertaining the extent to which the projects proposed would further the demonstration purposes of the program.

C. Technical Project Information.

Proposed § 436.76 identifies the required technical project information for each proposed project. The section distinguishes between information necessary for active and passive solar energy systems (§ 436.76(a)) and additional information for active systems alone (§ 436.76(b)). With regard to proposed projects for existing Federal buildings, the section requires the assumption that budgeted energy conservation measures (those for which funding has been requested) have been completed. This assumption is desirable to avoid designing a solar energy system for building energy load figures which are soon to be outdated. This assumption does not include possible energy conservation measures for which funding has not been requested because Federal agencies may not have that information and would have to collect it with their own funds within the 180 day period for submitting proposals.

Under § 436.76(a), the proposal should contain basic information with respect to the design of a proposed active or passive solar energy system, including estimated savings in fossil fuels and electricity, on a form to be provided by DOE. The form which is available in the public file will not necessitate the conduct of a detailed architectural and engineering study, but will require a description of the design of the proposed solar energy system from the component through the subsystem level. A schematic rendering of the solar energy system design is also required as essential basic information.

Proposed § 436.76(a) requires the Federal agency to describe the method of calculation it uses or plans to use in calculating the optimized solar collector area. Typical methods of calculation are set forth in the DOE Facilities Solar Design Handbook and the U.S. Army

Construction Engineering Research Lab Solar Handbook, which are available for inspection in the public file. Other common methods of calculation are FCHART, SOLCOST, DOE-1 and BLAST, which are computer programs available in the public domain. Further information on these computer programs may be obtained from DOE.

Proposed § 436.76(a) would have Federal agencies assure DOE that basic procedural steps will be performed, including complete design review prior to construction, updating of solar energy system and installation drawings on a timely basis, acquisition of a suitable operation and maintenance manual, and acquisition and implementation of an "acceptance testing plan" to insure that the system is operating as designed upon completion of construction. The proposed rule would have the agencies supply DOE with copies of the drawings, the manual and the plan so that DOE will have an adequate documentary record of each funded project.

With respect to active solar energy systems, proposed § 436.76(b) begins with a requirement to identify whether the solar collector type is a flat plate, an evacuated tube, a concentrator, or other type. These terms for collectors are commonly understood by operating engineers and by those in the solar industry to describe basic types of solar collectors. Proposed § 436.76(b) would also require each agency to provide in its proposal an assurance of compliance with the following standards and performance criteria, where applicable:

1. NBS Interim Performance Criteria for Solar Heating and Cooling Systems in Commercial Buildings;
2. Intermediate Minimum Property Standards for Solar Heating and Domestic Hot Water Systems [HUD-residential categories]
3. ASHRAE 93-77, which is a uniform method of conducting and reporting collector thermal performance test results; and
4. The test procedure identified in § 7.2 NBS Interim Report 78-1305A for obtaining solar thermal performance test data, based on exposure to natural environments.

Except for the ASHRAE 93-77, a Federal agency may be exempted from parts of the NBS standards and HUD performance criteria provided there is a reasonable explanation in its proposal which is satisfactory to DOE. Copies of these standards and criteria are available for inspection in the public file. While not specifically mandated by the legislation, these proposed requirements for active solar energy

systems are included to help ensure that the solar design and equipment are in accordance with currently accepted industry standards, and to ensure safety and uniformity in the installation, maintenance and operation of the solar energy equipment in Federal buildings. There are no similarly accepted standards and criteria for passive solar energy systems.

Proposed § 436.76(b) also requires each Federal agency to provide in its proposal a statement of the terms of warranties to be required in connection with the manufacture and installation of solar energy equipment. Minimum warranties are specified, but the Federal agency is of course free to negotiate additional warranties from the manufacturer or installer if deemed necessary or desirable. These minimum warranties are included in the proposed rule to assure reasonable quality in active solar energy systems, to insure safety and to illustrate levels of protection against defects which are or ought to be available to the consumer. Suggestions for improving these provisions would be welcome.

It is expected that as conditions change in the industry provisions of this rule for performance criteria and warranties will be amended as appropriate.

D. Project Cost Information. As noted above, section 523 of the NECPA requires Federal agencies to provide for each proposed project estimated payback time, a life cycle cost analysis and evaluation of the present value of benefits and costs, and identification of "excess cost" if any. DOE is required in turn to take these data into account in evaluating projects although no project will be rejected merely because it is not the most cost effective system in comparison to a conventional non-solar energy system alternative.

In accordance with section 523, the proposed § 436.77 requires, for each project, an analysis of "simple payback" and of "net savings" in accordance with Subpart A of Part 436. "Simple payback" and "net savings" are measures of the dollars saved over time (benefits) because of dollars invested (costs) based on a comparison of the savings and costs of a solar energy system and a conventional non-solar energy system alternative. "Simple payback" is a rough, approximate measure of cost effectiveness which does not take into account estimated savings and costs to be incurred subsequent to the point in time when payback is achieved (i.e., the year when accrued energy cost savings equal investment costs.) "Net saving" however, is a true measure of life cycle

cost. It is more informative and more difficult to calculate than "simple payback" because cash flows over the entire useful life of a building are taken into account and discounted to present values. A negative value for "net savings" represents the "excess cost" of the solar energy system over the conventional non-solar alternative. "Net savings" will be calculated in accordance with the life cycle cost analysis rule soon to be proposed for public comment as Subpart A of Part 436.

The preamble to Subpart A focuses several issues for comment of interest to the program described by today's proposal. These issues are the advisability of projecting replacement cost base year prices, of using a discount rate of less than 10 percent, and of adjusting investment costs.

It is possible that the life cycle costing rule may not be ready for final publication in time for proposals under the final version of today's proposed rules. In order to provide timely assistance to the solar industry with the appropriated funds available only for the fiscal year ending September 30, 1979, DOE may be compelled to treat the proposed life cycle costing rule as an interim rule for the first set of Federal agency proposals to be submitted and evaluated under the final version of today's proposed rules.

Comments regarding life cycle costing issues should be addressed to the rulemaking for Subpart A.

E. Forms. DOE intends to provide forms in a basic "Solar Design Information and Data Package" (Data Package) for use by Federal agencies in providing the following information:

- Solar design characteristics,
- Building heating and cooling loads,
- Site specific weather and climatic information, and
- Solar energy system cost information.

The forms are expected to provide a convenient vehicle for the proposing Federal agency in aggregating the information required pursuant to proposed §§ 436.74(d)(3), 436.76(a)(1) and 436.77, and to provide DOE with uniformly presented information to facilitate evaluation of the technical feasibility, costs, and performance of the proposed solar energy system. One form will be provided both for aggregating project cost information in a proposal under § 436.77 and for reporting and updating cost information in quarterly status reports under § 436.74(d)(3). The Data Package is expected to generate data necessary to perform an adequate evaluation. Prior to transfer of

construction funds, more detailed solar energy system design information may be required to be developed by a participating Federal agency once individual projects are selected and funded for design costs. The Data Package is available for inspection in the public file.

III. Evaluation Procedures and Criteria

The criteria set forth in proposed § 436.78 provide for a three-step process of evaluation for a proposal submitted under this subpart. Although Federal agencies have 180 days from the effective date of this subpart to submit initial proposals, evaluation, selection, and funding is expected to begin after the first 30 days.

In the first phase, a proposal will receive a preliminary review to determine whether it contains information sufficient to satisfy the minimum requirements of §§ 436.74–436.77, and is signed by the head of the submitting agency. Those proposals which do not fulfill these minimum requirements may be returned to the submitting Federal agency for completion, with a written explanation of deficiencies. Additional time for completion may be allowed.

The second phase of the evaluation involves a screening process. Any project for which there is complete information under §§ 436.74–436.77 will be rejected if—

- The design is infeasible,
- The cost estimates are unrealistic,
- The project costs to be funded exceed \$500,000, or
- The explanations of exceptions from the standards and performance criteria under § 436.76(b)(2) and (b)(3)(ii) are unreasonable.

If a Federal agency expects the costs of any project to be in excess of \$500,000, it should indicate its intention of funding the excess from its own budget in the proposal in order to avoid rejection of the project at this stage.

The third step in the evaluation process, application of the criteria by which projects will be selected for funding, is covered in proposed § 436.78(c)(1) through (6). Although all the criteria will be applied to each project, projects are likely to be selected if they are favorably evaluated on the basis of most but not necessarily all of the criteria. Three elements of the criteria are required to be included by the NECPA. They are:

- The proximity of the project to areas which have a potential for development as a private sector solar energy equipment market:

- The cost effectiveness in comparison to other proposed similar projects, and excess cost, if any, in comparison to the conventional non-solar energy system which minimizes the estimated life cycle cost of the Federal building; and

- The extent to which the proposed project represents an innovative and diverse application.

Preference would be given to an "innovative and diverse application" as defined by proposed § 436.71. Examples would be a solar energy system in combination with a waste heat recovery system or with an energy system using biomass or wind.

The other elements which DOE proposes to add are visibility and accessibility to the public; geographical diversity; and replication, which is defined by proposed § 436.71 as the extent to which a Federal building is representative of a significant number of existing or new buildings in the public or private sector by category or design. These additional elements were included by DOE to promote significant demonstrations at widely dispersed sites throughout reasonably populated areas of the United States within the limits of the program budget. While the latter three criteria are not specifically required by the legislation, their inclusion represents an effort to further the demonstration purposes of this program.

Under past demonstration programs, the distribution of projects funded was 30 percent for hot water, 60 percent for space heating, and 10 percent for space heating and cooling. This distribution resulted from application of technical feasibility and cost criteria, and it is expected that a similar distribution will prevail in approved projects under today's rule for at least the first year. The distribution in future years may change as technology develops and new solar energy equipment becomes available.

DOE also expects that there may be a few approved projects involving solar energy systems to serve needs for "process" energy use. These needs are commonly attributable to the performance of business functions in a building. DOE does not anticipate there to be many projects of this nature because of their high investment costs in relation to the overall availability of funds appropriated for this program and because the basic thrust of the program is toward varied demonstration of space heating, and space heating and cooling solar energy systems.

DOE is considering the desirability of incorporating in the final rules certain changes in the above-described proposed evaluation process. These changes would involve additional provisions regarding cost sharing with Federal agencies and for attaching possible points for the evaluation criteria of § 436.78(c). Cost sharing could extend the impact of the program by stimulating Federal agencies to undertake projects in which they might not otherwise have invested. To promote cost sharing, Federal agencies would be accorded extra points in the final stage of the evaluation process for proposed projects to be financed on a cost sharing basis. Points would also be given for the other discretionary criteria of § 436.78(c), and the number of possible points under the final rule would show the weight of each criterion in the evaluation process. The public is specifically invited to comment on the desirability of this approach and to suggest which of the criteria deserve greater emphasis in the allocation of points.

IV. Transfer of Funds

Proposed § 436.79, in accordance with the NECPA, provides a mechanism for transfer of funds pursuant to interagency agreement (or memorandum of agreement for projects within DOE).

As the legislation specifically limits financial assistance to the design, acquisition, construction and installation of solar energy equipment, DOE will not provide assistance for certain "nonfundable costs". "Nonfundable costs" are defined by Subpart D to include items relating to operation and maintenance costs, and administrative and managerial costs. Expansion of this definition to include design costs incurred by a Federal agency prior to the submission of its proposal (sunk design costs) is also being considered by DOE. Comments with respect to the advisability of such an exclusion are invited.

Financial assistance is intended to be provided by means of a two-step process. After the proposals are evaluated and the Federal agency has been notified in writing of the project selection, funds for design costs will be transferred pursuant to an interagency agreement in the amount of approximately 6–10 percent of the total estimated solar energy system costs. Once a sufficient design review acceptable to DOE has been accomplished, the balance of funds for construction will be transferred. However, DOE retains the option not to fund for construction those projects

which appear during design review to be substantially inconsistent with the initial proposal data, or otherwise infeasible.

The proposed rules also provide for possible transfers of supplemental funds, although the DOE is not obligated and may not be able to provide such funds. In accordance with proposed § 436.79, supplemental funds may be transferred at the discretion of DOE when the lowest acceptable construction bid is somewhat larger than the amount of construction funding initially transferred. However, subsequent to contract award, supplemental funds which are not likely to be available, are subject to transfer at the discretion of the DOE only upon application by a senior policymaking official of the Federal agency concerned, and the performance of an audit acceptable to DOE which shows that the need for additional funding is caused by extraordinary and not reasonably foreseeable circumstances beyond the Federal agency's control.

DOE intends to limit financial assistance under this program to \$500,000 per project in order to permit the demonstration of a maximum number of projects. A Federal agency may, however, propose more expensive projects, if it is willing to fund any costs which exceed the amount of the assistance provided by DOE out of its own budget. DOE considers the purposes of the legislation will best be met by funding a greater number of projects rather than fewer projects of unlimited scope and size. DOE is considering whether to elaborate on this funding ceiling in the final rule in order to permit a still larger number of projects.

The final rule may provide the following funding ceiling: \$500,000 for an active solar space heating, cooling and hot water project; \$300,000 for an active solar space heating and hot water project; \$200,000 for an active solar hot water project; \$100,000 for any passive solar space heating, cooling, or hot water project; and \$500,000 for any active or passive solar energy system generating energy for consumption in an industrial-type process. Comment on this option would be welcome.

V. Project Reporting Requirements

A. Construction Status Reports. For each project for which financial assistance has been transferred pursuant to an interagency agreement, or memorandum of agreement, proposed § 436.74 calls for quarterly status reports, beginning forty-five days after

transfer of design funds. These reports should, for each project—

- Identify milestone schedules for completion of the design, acquisition, construction and installation of each project, and for design reviews, award of major subcontracts, acceptance testing plan and planned publicity.
- Describe the progress made toward completion,
- Identify significant costs incurred during the reporting period, and any current or projected revisions to estimated design, acquisition, construction and installation costs,
- Describe any significant problems or delays in meeting schedules and actions taken to resolve the problems, including revisions of the schedules, and
- Discuss any revisions to milestone schedules, including design reviews, award of major subcontracts, acceptance testing, and planned publicity.

A final report is also required to be submitted forty-five days after completion of an acceptance testing plan. An "acceptance testing plan" is defined by this subpart as a test procedure to measure the performance of a solar energy system to determine if the system is operating properly. The final report should include a table of contents, summaries of the acceptance testing plan and its results, photographs of the solar energy system in operation, a set of reproducible design and installation drawings of the solar energy system, as constructed, and a statement setting forth the extent to which the Federal agency has complied with the standards and criteria set forth in § 436.76(b)(2) and (3).

VI. Operation and Maintenance Reports

For each project for which financial assistance has been provided pursuant to an interagency agreement or memorandum of agreement, proposed § 436.80 calls for the recipient agency to submit to DOE operation and maintenance reports, beginning sixty days after startup of the solar energy system. The reports would be submitted quarterly in the first year of operation, and on an annual basis thereafter.

The operation and maintenance reports are required to contain data recorded on a monthly basis with respect to—

- Total amount of Btu's transferred into storage,
- Total amount of Btu's consumed in each building, distinguishing between hot water, heating, and cooling consumption, and
- Estimated or actual cost savings by fuel type.

The Federal agency is also required to advise DOE of all operation and maintenance actions performed during the reporting period which have a significant impact on the cost, performance or safety of the solar energy system, and to provide estimates of monthly cost for all normal and significant operation and maintenance actions.

VII. Determinations Under Executive Order 12044

Today's proposed rule was reviewed under Executive Order 12044, 43 FR 12661, and is deemed to be significant because of the widespread impact on Federal agencies of the Executive Branch. This is not deemed a major rulemaking because the rules, when finalized, will not have the kind of effects which call for a regulatory analysis. A comment period of 60 days is provided on today's proposal; and DOE intends to make the rule effective upon final publication. Section 523 allows 180 days for submission of a proposal after such publication. By making the rule effective immediately, agencies will have the full 180 days to file proposals, and support to the solar industry will be expedited. The public is invited to comment on this expedited effective date.

VIII. Environmental Review

DOE is preparing an environmental assessment of this program pursuant to the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. Section 4321 *et seq.*). If, on the basis of this environmental assessment, it is concluded that the impacts of the program are environmentally significant, an environmental impact statement will be prepared. This NEPA review will be completed and considered prior to the promulgation of a rule in this matter.

IX. Public File

A public file for this rulemaking is open to public inspection at DOE in Room 8G152 of the DOE Freedom of Information Office which is located at the Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. This file contains copies of key documents referenced elsewhere in this preamble. Additional materials of significance may be added to this file during the comment period.

X. Comment and Hearing Procedures

A. Written Comments. Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed

procedures, requirements, and criteria. Comments should be submitted to the address indicated in the addresses section of this preamble and should be identified on the outside of the envelope and on documents submitted to DOE with the designation "Solar In Federal Buildings," (Docket No. CAS-RM-79-401.) Fifteen copies should be submitted. All written comments received by May 31, 1979, before 4:30 p.m., and all other relevant information will be considered by DOE before action is taken on the proposed rules.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and treat it according to its determination.

B. Request Procedures. The time and place of this public hearing are indicated in the dates and addresses section of this preamble. DOE invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest in today's proposed rulemaking, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the address indicated in the addresses section of this preamble and must be received before 4:30 p.m. e.d.t. on April 9, 1979. Such a request may be hand delivered to [Room 2221C], 20 Massachusetts Avenue, N.W. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A request should be labeled both on the document and on the envelope "SOLAR IN FEDERAL BUILDING PROGRAM—Proposed Rule."

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted through the day before the hearing.

DOE will notify, before 4:30 p.m., e.s.t., April 10, 1979, each person selected to appear at the hearing. Each person selected to be heard must submit 15 copies of her or his statement to Margaret W. Sibley, Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20545 before 4:30 p.m., April 16, 1979.

C. Conduct of Hearings. DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to

establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked by those conducting the hearing, and there will be no cross-examination. Any decision made by DOE with respect to the subject matter of the hearing will be based on all information available to DOE. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if she or he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to have a question asked at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made, and the entire record of the hearing, including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In consideration of the foregoing, the DOE hereby proposes to amend Chapter II of Title 10, Code of Federal Regulations, by establishing Subpart D of Part 436 as set forth below.

Issued in Washington, D.C. on March 27, 1979.

Maxine Savitz,
Deputy Assistant Secretary Conservation
and Solar Applications.

PART 436—FEDERAL ENERGY MANAGEMENT AND PLANNING PROGRAMS

Sec.
436.1 Scope.
436.2 General Objectives.

Subpart A-C [Reserved]
436.3-436.69 [Reserved]

Subpart D—Solar in Federal Buildings Demonstration Program

436.70 Purpose and Scope.
436.71 Definitions.
436.72 Procedures for Submitting a Proposal.
436.73 Summary of Required Content of a Proposal.
436.74 Required Program Information.
436.75 Required General Project Information.
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436.77 Required Project Cost Information.
436.78 Evaluation Procedures and Criteria.
436.79 Transfer of Funds.
436.80 Operation and Maintenance Reports.

Authority: National Energy Conservation Policy Act, Title V, Part 2, 92 Stat. 3275; 42 U.S.C. 8241.

PART 436—FEDERAL ENERGY MANAGEMENT AND PLANNING PROGRAMS

§ 436.1 Scope.

This part sets forth the rules for Federal energy management and planning programs to reduce Federal energy consumption and to promote cost-effective investments in energy-saving alternative building systems, energy-saving new building designs, and use of solar and other renewable energy resources. There rules are required or authorized under section 381(a)(2) of the Energy Policy and Conservation Act, 42 U.S.C. 6361(a)(2) (1970), section 10 of Executive Order 11912, as amended by Executive Order 12003, 42 FR 37523 (July 20, 1977), or Title V of the National Energy Conservation Policy Act, 92 Stat. 3275 (1978).

§ 436.2 General objectives.

The objectives of Federal energy management and planning programs are—

- (a) To promote the design, construction, and operation of buildings to conserve and make more efficient use of fuels and energy;
- (b) To shift from use of nonrenewable to renewable energy sources;
- (c) To stimulate industries and create new job opportunities for supply and servicing new or improved energy-conserving and energy-supplying systems and equipment;
- (d) To promote consideration of the cost of energy consumed over the useful life of a building in addition to initial costs of construction or renovation; and
- (e) To place the Federal Government, the largest energy consumer in the United States, in the forefront in implementing energy conservation measures and in promoting use of solar and other renewable energy resources.

Subpart A-C—[Reserved]**§§ 436.3-436.69 [Reserved]****Subpart D—Solar in Federal Buildings Demonstration Program****§ 436.70 Purpose and scope.**

This subpart contains the rules required or authorized to be promulgated under section 523 of Title V, Part 2, of the National Energy Conservation Policy Act, 92 Stat. 3275, which provides for a program for Federal agencies to demonstrate the application to Federal buildings of solar heating and solar heating and cooling systems. The rules set forth procedures and requirements for the content and submission of proposals by Federal agencies, for the criteria for evaluation and selection of projects to be funded, and for the periodic reporting of data regarding maintenance and operation of solar energy systems funded under this subpart.

§ 436.71 Definitions.

"Acceptance testing plan" means a test procedure to measure the performance of a solar energy system to determine if the system is operating as designed.

"Active Solar Energy System" means a solar heating or a solar heating and cooling system in which thermal energy from the sun is collected and transferred by pumps or fans that move heat transfer fluids or air throughout the system.

"Acquisition costs" means project acquisition costs which are fundable by DOE under this subpart, including but not limited to full purchase costs of solar energy equipment to be used exclusively for the solar energy system, and that portion, attributable to the solar energy system, of costs of equipment used as part of that system as well as for other non-solar purposes.

"Building" means any structure with a roof and walls designed for storage or human occupancy which uses energy for hot water, heating, or heating or cooling.

"Building System" means any part of the structure of a building or any energy using system contributing to energy use in a Federal building.

"Btu" means British Thermal Unit.

"Budgeted" means that the Federal agency has requested funding.

"Category" means the characterization of a Federal building in terms of the primary function performed in or by the building, including but not limited to retail, office, health, education, public service, storage, and residential functions.

"Construction costs" means project construction costs which are fundable by DOE under this subpart, including but not limited to that increment of the costs of constructing or modifying a building or site attributable to the installation of the solar energy system.

"Design costs" means project design costs which are fundable by DOE under this subpart, including but not limited to preliminary feasibility design, detailed design, analysis of a solar energy system, and preparation of drawings and specifications.

"Design review" means a meeting or series of meetings held by a Federal agency with the designer of a solar energy system to assess and document the adequacy and accuracy of the mechanical, electrical, and control portions of the solar energy system and to ensure that estimates of acquisition, construction, and installation costs are correct.

"DOE" means the Office of Conservation and Solar Applications of the Department of Energy.

"Energy conservation measure" means energy conservation measure as defined by § 436.41.

"Existing Federal Building" means a Federal building for which construction was completed by November 9, 1978, or for which the design cannot be feasibly modified after the effective date of this subpart.

"Federal agency" means an Executive agency as defined in section 105 of Title 5, United States Code; and each entity enumerated in paragraphs (B) through (H) of Subsection (1) of section 5721 of Title 5, United States Code.

"Federal Building" means any building or other structure owned by the United States or any Federal agency, including any such structure occupied by a Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation.

"Innovative and diverse application" means the application to a Federal building of an active or passive solar energy system in combination with a feasible, new or underutilized energy conservation technology or other renewable energy system to reduce consumption of non-renewable energy resources in that building.

"Insolation" means a rate of solar energy received per unit area.

"Installation costs" means project installation costs which are fundable by DOE under this subpart, including but not limited to the emplacement of the

solar energy system and conduct of the acceptance testing plan.

"Investment costs" means the initial costs of design, acquisition, construction, and installation.

"Jurisdiction or control" means power or authority to direct, administer, or control the use or operation of a Federal building.

"Memorandum of agreement" means the internal DOE document by which funds are transferred within DOE to install solar heating and solar heating and cooling equipment in a DOE-controlled Federal building.

"New Federal Building" means a Federal building for which construction was not completed prior to November 9, 1978, and the design of which can be feasibly modified after the effective date of the rule.

"Non-fundable costs" means project costs which are not fundable by DOE under this subpart, including but not limited to costs of energy conservation investments, cost of a backup system not attributable to the solar energy system, operation and maintenance costs and administrative and managerial costs.

"Optimized Collector Area" means the collector area for a solar energy system that gives the greatest total (or annualized) net savings where net savings are determined by a life cycle cost comparison of the solar system and an alternative solar energy system.

"Passive Solar Energy System" means a solar energy system characterized by reliance on natural convection, conduction and radiation, and by heat collection and storage devices that are structurally integrated with the occupied space, such as storage walls, storage roof, greenhouse, atrium or sunspace, thermosyphon hot water system, reflector assemblies, shading devices or reflective surfaces or glazings.

"Project" means specific actions to accomplish the design, acquisition, construction and installation of a solar energy system in a Federal building.

"Proposal" means an application by a Federal agency under this subpart requesting funding for one or more projects.

"Replication" means the extent to which a Federal building is representative of a significant number of existing or new buildings in the public or private sector, by category or design.

"Retrofit" means the installation of an alternative building system as defined by § 436.41 of an existing Federal building.

"Solar collector" means a device or structure specifically designed for receipt of solar radiation, conversion of

the solar radiation to useful heat, and in the case of a passive solar energy systems, for storage of the heat.

"Solar energy equipment" means equipment which is for active or passive solar hot water heating, heating, or heating and cooling including but not limited to collectors, storage devices, heat exchangers, south-facing glazing, mountings, piping, instrumentation, pumps, valves gauges and controls.

"Solar energy system" means the assembly or structural integration of solar energy equipment, according to a design, for the purpose of supplying all or part of the hot water, heating, or heating and cooling requirements of a Federal building by the use of solar collectors.

"Solar heating" means, with respect to any Federal building, the use of solar energy to meet all or part of the heating needs of such building (including hot water) or all or part of the needs of such building for hot water.

"Solar heating and cooling" means, with respect to any Federal building, the use of solar energy to provide all or part of the heating needs of such building (including hot water) and all or part of the cooling needs of such building, or all or part of the needs of such building for hot water.

"State" means a State, the District of Columbia, Puerto Rico or any territory or possession of the United States.

§ 436.72 Procedures for Submitting a Proposal.

(a) Any Federal agency that has or will have jurisdiction or control over a Federal building in a State may submit a proposal under this subpart with respect to such a building. Initial proposals are due on or before 180 days from the effective date of this subpart. Subsequent proposals may be submitted only upon notice of invitation by DOE in the Federal Register.

(b) An original of each proposal, signed by the head of the submitting Federal agency, or a designated Assistant Secretary or Assistant Administrator, and four copies shall be submitted to the Office of Conservation and Solar Applications, 20 Massachusetts Avenue, NW., Room 2221C, Attn: Solar Federal Building Program, United States Department of Energy, Washington, D.C. 20545.

§ 436.73 Summary of Content of a Proposal.

A proposal, with a table of contents and pages numbered consecutively, shall contain the program information required under § 436.74, and for each project—

(1) The general project information required under § 436.75;

(2) The technical project information required under § 436.76; and

(3) The project cost information required under § 436.77.

§ 436.74 Required Program Information.

A proposal shall contain—

(a) The address and telephone number of the Assistant Secretary or Assistant Administrator responsible for implementation of a proposal approved under this subpart;

(b) The responsibilities with respect to projects of headquarters, regional, and field offices;

(c) Procedures for monitoring project expenditures;

(d) A plan for quarterly status reports beginning 45 days after transfer of design funds under § 436.79 which—

(1) Identifies individual milestone schedules for each project, including—

(i) Completion of the design, acquisition, construction and installation of each project;

(ii) Design reviews;

(iii) Award of major solar energy system subcontracts;

(iv) Acceptance testing plan; and

(v) Planned publicity, if any.

(2) Describes progress toward completion of each project;

(3) Identifies on a form provided by DOE all costs incurred during the reporting period for each project and any current or projected revisions to estimated investment costs for each project;

(4) Describes any significant problems or delays in meeting the milestone schedule of any project during the reporting period and actions proposed or implemented to solve the problems, including any necessary revision of the schedule.

(e) An assurance that a final construction status report will be submitted forty-five days after the completion of an acceptance testing plan, which contains the following—

(1) A table of contents;

(2) A description of the completed solar energy system;

(3) Total costs on a DOE form, of the solar energy system, as constructed;

(4) A summary of any significant problems encountered in project completion;

(5) A summary of the acceptance testing plan;

(6) A summary of the results of the acceptance testing plan;

(7) Photographs of the solar energy system;

(8) A set of reproducible design and installation drawings of the solar energy system, as constructed; and

(9) A statement setting forth the extent to which the Federal agency has complied with the criteria and standards set forth in § 436.76(b)(2) and (3).

(f) A statement showing the extent, if any, to which the project represents an innovative and diverse application and identifying its geographic location;

(g) A statement setting forth the location of project records; and

(h) An assurance that complete records maintained for review of project expenditures shall be available for inspection by the DOE at reasonable times;

§ 436.75 Required general project information.

(a) Each proposal submitted under this subpart shall list the Federal buildings in which projects are proposed to be implemented, distinguishing between existing Federal buildings and new Federal buildings;

(b) For each Federal building listed under paragraph (a) of this section, the agency shall provide the following general information—

(1) The street address, if known;

(2) The city, county and state;

(3) The name, address and telephone number of the project contact person, located at or adjacent to the building site, who is responsible for a solar energy system proposed for installation under this subpart;

(4) A description of the Federal building in terms of its category;

(5) Photographs taken from the Federal building, or site, looking east, south and west;

(6) Estimated or actual, if available, number of building occupants;

(7) Number of visitors annually, if known;

(8) Number of buildings in the surrounding area visible from the Federal building;

(9) Average number of floors in surrounding buildings visible from the Federal building;

(10) Type of transportation route from which the Federal building is clearly visible;

(11) Type of transportation route from which the building is directly accessible;

(12) Types of planned project publicity;

(13) Size and location of closest city or town; and

(14) Other relevant location or design factors.

§ 436.76 Required technical project information.

(a) With respect to each active and passive solar energy system proposed for a Federal building listed under § 436.75 and assuming, in the case of an existing Federal building, that budgeted energy conservation measures are complete, the following technical information shall be provided—

(1) Basic building and solar energy system design information on forms provided by DOE, and a schematic rendering of the design;

(2) The method of calculation used or to be used in calculating the optimized solar collector area; and

(3) An assurance that the Federal agency will—

(i) Perform and record the results of all design reviews prior to construction;

(ii) Maintain a current set of solar energy system design and installation drawings;

(iii) Obtain and implement an operation and maintenance manual suitable for use by maintenance personnel;

(iv) Obtain and implement an acceptance testing plan including data collection requirements to determine that—

(A) Each major component of the solar energy system is installed and operating as designed;

(B) The solar energy system is balanced to conform as closely as practicable to the design performance specifications; and

(C) Solar energy system data is recorded during acceptance testing, along with the date, time and individual (s) performing the test; and

(v) Provide three copies of the information referred to in § 436.76(a)(3) as soon as reasonably possible after it is obtained.

(b) With respect to each active solar energy system proposed for a Federal building, and assuming in the case of an existing Federal building, that budgeted energy conservation measures are complete, the following technical information shall be provided—

(1) A statement setting forth whether the proposed solar collector type is flat plate, evacuated tube, concentrator, or other type, as well as any limiting design characteristics;

(2) An assurance that the system will be designed and constructed to comply with the *Interim Performance Criteria for Solar Heating and Cooling Systems in Commercial Buildings* (1187 NBS INT. REP. (1976)), or, with the HUD *Intermediate Minimum Property Standards for Solar Heating and Domestic Hot Water Systems*, (in

residential buildings) (4930.2, HUD INT. MPS SUPP. (1977)), or an explanation of any reasons for exception from any part of these criteria or standards;

(3) An assurance that solar collectors will be selected taking into account—

(i) Solar collector thermal performance data collected under ASHRAE 93-77; and

(ii) Thirty-day no-flow solar collector degradation test data recorded in accordance with the procedures identified in 1305 (7.2) NBS INT. REP. (1978), or an explanation of any reasons for exception from these procedures;

(4) An assurance that each proposed project will have—

(i) A one-year warranty from the installer, commencing with the date upon which installation is completed—

(A) Against failure of the solar energy system by a defect in materials, manufacture, or installation;

(B) Covering full costs of parts, labor, and replacement and installation at the site;

(C) Providing for reasonable inspections on request, at no cost to the Federal agency, to investigate complaints, and take expeditious corrective action; and

(ii) A five-year warranty from the manufacturer, with respect to solar collectors, commencing with the date upon which installation is completed—

(A) Against defects in materials or manufacture and covering at least the costs of all parts delivered to the site; and

(B) Providing for reasonable inspections on request, at no cost to the Federal agency, to investigate complaints, and take expeditious corrective action.

§ 436.77 Required project cost information.

For each Federal building listed under § 436.75, and assuming, in the case of an existing Federal building, that budgeted energy conservation measures are complete, the following cost information shall be provided on DOE forms—

(a) Estimated simple payback time, based on a comparison of the estimated costs of a proposed solar energy system with the estimated costs of a conventional non-solar energy system to determine the number of years required for the cumulative value of net differences in future energy cost savings to equal investment costs without regard to discount rates or future fuel price increases;

(b) Net savings, calculated in accordance with Subpart A of this part, based on a comparison of the estimated costs of a proposed solar energy system

with the estimated costs of a conventional non-solar energy system; and

(c) Total estimated costs as designed; and

(d) Total costs of the solar energy system.

§ 436.78 Evaluation procedures and criteria.

(a) Each project proposal shall be reviewed preliminarily to determine whether it meets the requirements of § 436.72 and §§ 436.74 through 436.77, inclusive. If a proposal does not meet these requirements, the proposal shall be returned with a written statement of deficiencies. If deemed appropriate, additional time to cure deficiencies may be allowed.

(b) Any project for which there is complete information under §§ 436.75-436.77 shall be rejected with a written statement of deficiencies if—

(1) The design is infeasible;

(2) The cost estimates are unrealistic;

(3) The project costs to be funded under this subpart exceed \$500,000; or

(4) The explanations of exceptions proposed under § 436.76(b)(2) and (b) (3) are deemed by DOE to be unreasonable.

(c) Except as provided in paragraph (d) of this section, selection among projects, which are not rejected under paragraphs (a)-(c) of this section, shall be based on one or more of the following criteria—

(1) Extent to which the project represents an innovative and diverse application;

(2) Extent of visibility and accessibility to the public; and

(3) Proximity to areas which have potential for development as a Private sector market for solar energy equipment;

(4) Extent of replication;

(5) Cost effectiveness and in comparison to other proposed similar projects excess cost, if any, in comparison to the conventional non-solar energy system which minimizes the estimated life cycle cost of the Federal building;

(6) Geographical location in regard to other proposed projects.

(d) Preference shall be given to projects which represent an innovative and diverse application.

(e) Each evaluation under paragraph (c) of this section shall be in writing and shall be made available to the proposing Federal agency, or the public upon request.

§ 436.79 Transfer of funds.

(a) When a project is selected under § 436.78, the Federal agency shall be

notified in writing of such selection, and funds shall be transferred, pursuant to interagency agreement or a memorandum of agreement, solely for design costs in the amount of approximately 6 to 10 percent of the total estimated solar energy system costs.

(b) Upon substantial completion of a design review acceptable to DOE, total estimated costs for acquisition, construction, and installation shall be transferred pursuant to interagency agreement or memorandum of agreement.

(c) Prior to transfer of funds under paragraph (b) this section, projects which are determined to be substantially inconsistent with the data contained in the initial proposal or are determined to be otherwise infeasible are subject to cancellation by DOE.

(d) Except as provided in paragraph (e) and (f) DOE shall not provide any funds for a project in excess of the funds transferred under paragraphs (a) and (b) of this section.

(e) Subsequent to bid opening by a Federal agency, and prior to contract award, DOE may in its discretion commit to transfer or transfer supplemental funds upon notification by the Federal agency that the lowest acceptable bid received by the time of bid opening exceeds the amount of funds transferred under paragraph (b) of this section. In no event shall DOE transfer supplemental funds under this subsection in excess of 25% of the funds transferred under paragraph (b) of this section. A complete record of the bid opening shall be maintained by the Federal agency, and made available for review by DOE upon request, prior to the transfer of supplemental funds under this paragraph. If the supplemental funds necessary to award a contract are not provided by the DOE, the Federal agency shall either fund the excess from its budget, or reformulate the design of the project in a manner acceptable to DOE, or cancel the project and transfer back to DOE the funds transferred under paragraph (b) of this section, as well as any unexpended funds transferred under paragraph (a) of this section. Any interagency agreement or memorandum of agreement transferring funds under these rules shall specifically provide for compliance with this subsection.

(f) Subsequent to the award of a construction contract, DOE may in its discretion transfer additional supplemental funds if it has received a timely written application for such funds signed by an assistant secretary, assistant administrator, or other senior policymaking official of the Federal

agency and a written report of an audit acceptable to DOE showing that there is a need for additional funding caused by extraordinary circumstances beyond the control of the Federal agency and which could not reasonably have been foreseen.

§ 436.80 Operation and maintenance reports.

Commencing within 60 days of completion of the acceptance testing plan, and continuing on a quarterly basis for the first year of operation and on an annual basis thereafter for a total of three operating years, the Federal agency shall submit on a project by project basis, the following information—

(a) Data recorded on a monthly basis from installed instrumentation for—

(1) The total amount of solar generated Btu's transferred into storage, where applicable;

(2) The total amounts of solar generated Btu's consumed in each building for hot water, heating, or cooling, respectively; and

(3) The estimated, or actual, if available, energy savings by fuel type and costs savings for hot water, heating, or heating and cooling.

(b) Solar energy system data and information for—

(1) All operating and maintenance actions performed which have a potential significant impact on the cost, performance, or safety of the solar energy system or components, or are indicative of operating or maintenance problems which might affect the performance and operation of other solar energy systems. Information submitted must include—

(i) A complete description of the action performed;

(ii) The solar energy equipment and component involved;

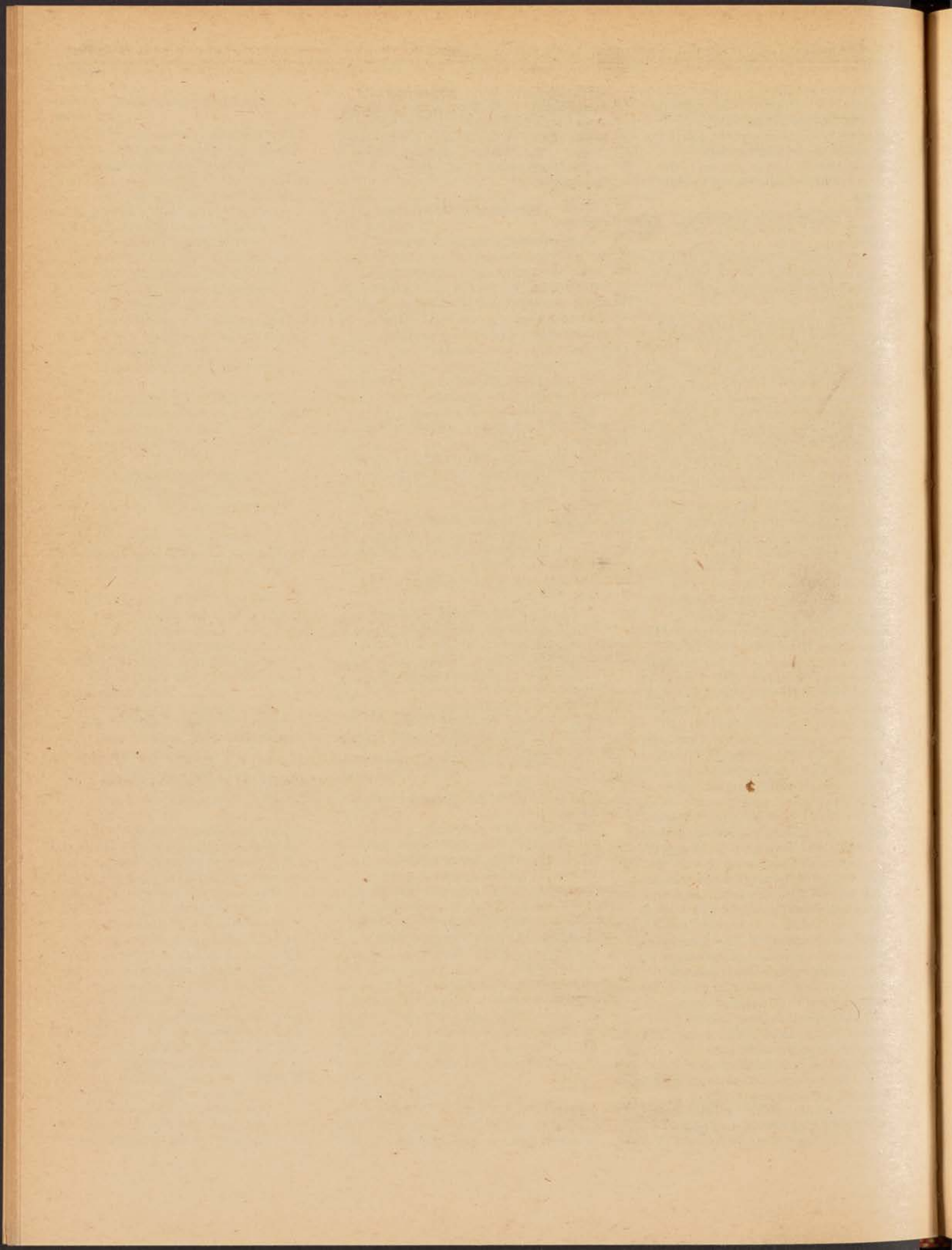
(iii) The resulting cost; and

(iv) The corrective action taken; and

(2) Monthly cost estimates of all normal and significant operating and maintenance actions required to keep the solar energy system in operating condition. Specific routine actions need only be reported based on a monthly accumulation of their actual or estimated costs.

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Testis Report Project Federal Project

Monday
April 2, 1979

Part VI Department of Energy

Energy Measures and Energy Audits
Grant Programs for Schools and
Hospitals and Buildings Owned by Units
of Local Government and Public Care
Institutions

DEPARTMENT OF ENERGY

10 CFR Parts 450, 455

Energy Measures and Energy Audits; Grant Programs for Schools and Hospitals, and Buildings Owned by Units of Local Government and Public Care Institutions

AGENCY: Department of Energy.

ACTION: Final Rule.

SUMMARY: The Department of Energy (DOE) is issuing final regulations to establish grant programs, subject to cost sharing requirements, to reduce consumption, and associated costs, of conventional energy resources in (1) schools and hospitals, and (2) buildings owned by units of local government and public care institutions. This objective is to be achieved through several means, including financial assistance for:

(a) Identifying improved operating and maintenance procedures;

(b) Identifying energy conservation measures, including solar energy or other renewable source measures; and

(c) Implementation, in the case of schools and hospitals, of selected energy conservation measures, including solar energy or renewable resource measures.

Financial assistance under these regulations will be provided through grants which the Secretary may award to States for the conduct of preliminary energy audits and energy audits. A State may participate in either the program for schools and hospitals, or the program for units of local government and public care institutions, or both. Preliminary energy audits and energy audits are part of a larger program which will also provide financial assistance for technical assistance and energy conservation measures; regulations governing the latter programs were proposed and published in the **FEDERAL REGISTER** on January 5, 1979 (44 FR 1580).

EFFECTIVE DATE: April 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Willingham, Director, Office of State-Specific Programs, Room 4117, 20 Massachusetts Avenue, NW., Department of Energy, Washington, D.C. 20545, Telephone: (202) 376-4149.

Lewis W. Shollenberger, Jr., Office of the General Counsel, Room 3224, 20 Massachusetts Avenue, NW., Department of Energy, Washington, D.C. 20545, Telephone: (202) 376-9472.

A. Introduction

On December 12, 1978, DOE Published a proposed rule (43 FR 58158) to

establish a program for preliminary energy audits (PEA) and energy audits (EA) of schools and hospitals, and buildings owned by units of local government and public care institutions.

DOE received 150 written comments and 58 persons testified at hearings held in Washington, D.C.; Chicago, Illinois; and San Francisco, California; January 8 and 9, 1979. Many suggestions were made, a number of which resulted in changes to the final rule.

With the issuance of this final rule, DOE amends Chapter II of Title 10, Code of Federal Regulations, to establish a program to provide financial assistance to conduct preliminary energy audits and energy audits of schools and hospitals, and buildings owned by units of local government and public care institutions, pursuant to Title III of the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3206 *et seq.*

Preliminary energy audits of schools and hospitals, and of buildings owned by units of local government and public care institutions, are a State responsibility. They are performed to provide the State a basis for making a reasonable estimate of the number and characteristics of buildings owned by eligible institutions which qualify for assistance for the conduct of energy audits. The preliminary energy audit information is to be used in the development of the State plan for technical assistance and energy conservation measures, including solar energy or other renewable resource measures. It may be impossible to perform preliminary energy audits for all eligible institutions within the time available. Therefore, provision has been made to allow States to perform preliminary energy audits on a sampling basis for purposes of developing the State plan. It is essential that the sample, if taken, be followed by an identification of all eligible institutions, and together with the buildings owned

by them, so that there is a listing of institutions and buildings which qualify for participation in the program. This information, together with data developed from the preliminary energy audits, will enable a State to establish criteria for determining which institutions should receive priority for assistance in the conduct of energy audits. The preliminary energy audit is designed to gather information and does not require a walk-through of the building by a trained auditor. Energy audits, which incorporate the preliminary energy audit data elements, do require a trained auditor to visit the building and make an on-site inspection. The energy audit is to identify changes in operating and maintenance procedures which could save energy. In addition, the energy audit is to indicate how great a need and potential exists for energy conservation measures, including solar energy or other renewable resource measures.

B. Notice of Grant Program Cycle

DOE has elected to use a grant program cycle for the preliminary energy audit and energy audit portion of the program as well as for the technical assistance and energy conservation measure portion of the program. For purposes of the preliminary energy audit and energy audit program, the grant program cycle is initiated as of the date of publication of this final rulemaking. State applications for financial assistance under this regulation are due thirty days from this date unless an extension of time is requested and approved. Table 1 presents the amounts allocated to States for the first grant program cycle. These allocations are based on fiscal year 1978 appropriations in the amounts of \$20 million for schools and hospitals, and \$7.5 million for units of local government and public care institutions. Except as may otherwise be specified by the Secretary, this first grant program cycle shall terminate September 30, 1979.

TABLE 1

State	Allocation factor	Schools and hospitals	Units ¹
Alabama	.0163	\$325,921	\$122,220
Alaska	.0100	\$199,184	\$74,894
Arizona	.0119	\$238,883	\$89,581
Arkansas	.0115	\$230,651	\$86,494
California	.0729	\$1,458,598	\$546,974
Colorado	.0143	\$286,815	\$107,556
Connecticut	.0157	\$313,050	\$117,394
Delaware	.0070	\$140,501	\$52,688
District of Columbia	.0076	\$152,401	\$57,150
Florida	.0312	\$624,450	\$234,169
Georgia	.0204	\$408,061	\$153,023
Hawaii	.0067	\$133,957	\$50,234
Idaho	.0087	\$174,116	\$65,294
Illinois	.0419	\$838,702	\$314,513
Indiana	.0227	\$453,809	\$170,178
Iowa	.0155	\$309,517	\$116,089
Kansas	.0129	\$258,950	\$97,106

TABLE 1—Continued

State	Allocation factor	Schools and hospitals	Units ¹
Kentucky.....	.0161	\$321,892	\$120,710
Louisiana.....	.0167	\$333,126	\$124,922
Maine.....	.0100	\$199,738	\$74,902
Maryland.....	.0185	\$369,396	\$138,523
Massachusetts.....	.0243	\$486,787	\$182,545
Michigan.....	.0353	\$705,846	\$264,693
Minnesota.....	.0199	\$397,059	\$148,897
Mississippi.....	.0120	\$240,969	\$90,363
Missouri.....	.0208	\$416,576	\$156,216
Montana.....	.0091	\$182,895	\$68,586
Nebraska.....	.0111	\$221,833	\$83,187
Nevada.....	.0072	\$143,094	\$53,660
New Hampshire.....	.0090	\$179,289	\$67,233
New Jersey.....	.0290	\$580,883	\$217,831
New Mexico.....	.0089	\$177,440	\$66,540
New York.....	.0637	\$1,274,325	\$477,872
North Carolina.....	.0222	\$443,618	\$166,357
North Dakota.....	.0096	\$191,631	\$71,861
Ohio.....	.0400	\$799,089	\$299,659
Oklahoma.....	.0139	\$277,538	\$104,077
Oregon.....	.0124	\$248,714	\$93,268
Pennsylvania.....	.0437	\$873,290	\$327,484
Rhode Island.....	.0085	\$169,209	\$63,453
South Carolina.....	.0136	\$272,121	\$102,046
South Dakota.....	.0089	\$178,025	\$66,759
Tennessee.....	.0184	\$367,706	\$137,890
Texas.....	.0446	\$892,824	\$334,809
Utah.....	.0099	\$198,229	\$74,336
Vermont.....	.0080	\$160,893	\$60,335
Virginia.....	.0211	\$421,892	\$158,210
Washington.....	.0168	\$336,652	\$126,245
West Virginia.....	.0111	\$221,930	\$83,224
Wisconsin.....	.0213	\$425,453	\$159,545
Wyoming.....	.0078	\$155,998	\$58,499
American Samoa.....	.0050	\$99,418	\$37,282
Guam.....	.0050	\$100,434	\$37,663
Puerto Rico.....	.0141	\$282,480	\$105,930
Virgin Island.....	.0052	\$104,126	\$39,047
U.S. total.....	1.0000	\$19,999,870	\$7,499,972

¹ Units of local government and public care institutions.

C. Summary of Major Comments on the Proposed Rule and DOE Response

DEFINITIONS—Four comments were received concerning leased buildings occupied by eligible institutions. NECPA provides that financial assistance is to be made available for buildings "owned" by eligible institutions. Therefore, buildings occupied on a lease arrangement do not qualify for financial assistance under this program. However, in some cases, a lease is used as a means of acquiring ownership. A definition of the term "owned" has been added to the rule to make it clear that leased buildings, title to which will transfer to the lessee at the end of the lease period, may also be qualified to participate in this program. Other comments regarding the definition of "building" pointed out that in exceptionally moderate climates there are many buildings owned by eligible institutions which have neither heating or cooling systems, but which could save energy through changes to lighting and hot water systems. DOE is constrained to use the definition

provided by NECPA which limits eligible "buildings" to those which are heated or cooled. The absence of any reference to hot water systems in the definition, unlike the definition of the term "building" elsewhere in the Energy Policy and Conservation Act, suggests an intent to preclude such systems from qualifying a building for assistance under these programs. DOE considers a mechanical ventilation system for distributing air throughout a building to be a cooling system and has added a definition of the term "heating or cooling system" to the rule which reflects this view. The purpose of this definition is to clarify conditions of eligibility, and should not be construed as restricting consideration of potential energy conservation opportunities to mechanical heating or cooling systems. On the contrary, all participants in this program should consider all available opportunities, including active and passive solar systems and other renewable resource measures. The definition of "energy conservation measure" has also been clarified to make clear the intent to consider passive solar energy systems, such as

solaria or thermal ponds, as well as active solar energy systems.

Several comments addressed the definition of the term "complex". One suggested inclusion of all buildings within a given jurisdiction to be considered a "complex". This suggestion was not adopted since it would result in limiting the amount of financial assistance available under cost limits applicable to energy audits. Two comments requested confirmation that a preliminary energy audit or energy audit could be conducted for a "complex" as well as for individual buildings within the "complex". The rule permits this without a language change, however, either approach must observe the cost limits stated in § 450.46.

Three comments were received regarding the definition of "cooling degree days". These, together with others related to the allocation formula, suggested a higher base for calculation of cooling degree days. The provision of the proposed rule has been retained because it is consistent with both the weather data maintained and published by the National Oceanographic and Atmospheric Administration and general engineering practice.

Two comments criticized the definition of "gross square feet" because it allowed inclusion of space which is not heated or cooled such as parking garages. One of the major purposes of defining the term is to permit comparisons of levels of energy use in similar buildings. Because little energy is used in areas which are neither heated nor cooled, a building which has a parking garage is not truly comparable to a building of the same size which does not. The definition has been modified to exclude areas which are not heated or cooled.

Numerous comments touched on the definitions of eligible institutions. These definitions are important because institutions will be accepted for, or barred from, participation based on whether they meet the test of the definition. Two commenters requested clarification. DOE is of the opinion that the States, as a result of licensing and oversight authorities with respect to eligible institutions, are in the best position to apply the definitions to institutions within their jurisdiction. Two comments asked if community colleges, which do not require a high school diploma or its equivalent for admission, are eligible. The NECPA legislative history suggests that the phrase "recognized equivalent" in the definition includes not only high school equivalency, but also whatever entrance requirements short of a high school

certificate an institution otherwise qualified chooses to impose for admission. A related question asked for clarification of the standards which will apply in determining institutional eligibility for participation in the programs. This question is representative of many which are sure to arise as the program is implemented, and must be answered on a case-by-case basis, depending on whether or not the institution can satisfy the requirements of the appropriate definition. Two comments requested the definitions be changed with regard to treatment of nursing homes. One suggested nursing homes be treated as hospitals. The other favored inclusion of proprietary nursing homes. Neither action is consistent with the provision of NECPA. However, nursing homes which meet the definition of a "public care institution" qualify for participation in the program. For example, a nursing home which is a facility for long-term care, as defined in section 1633 of the Public Health Service Act (42 U.S.C. 300s-3) is eligible for financial assistance under this grant program.

Seven commenters responded to the question of whether to include "parish" and "borough" in the definition of unit of local government. The final rule has been changed to include "parish" and "borough" under the definition of "unit of local government" for clarity. A related question regarding libraries brought 17 responses, all of which favored including libraries in the program. Accordingly, the definition of the term "unit of local government" has been expanded to describe those libraries which are eligible to participate in the programs. Two comments recommended that the definitions specify other buildings, such as police stations and fire stations, as buildings owned by units of local government. The language of the definition is sufficient, but police and fire stations were added to the categories of buildings owned by units of local government listed in § 450.42, "Contents of a preliminary energy audit", to clarify the intent.

One comment requested inclusion of head start centers under the definition of "school", and two comments sought inclusion of community action agency buildings under "unit of local government". Both are actions which DOE considers to be beyond the authority given in NECPA. However, buildings occupied by such agencies which meet the qualification requirements of either a "school" or "public care institution" as stated in the definitions are eligible to participate in the program.

One comment suggested the definitions of "State health facilities agency" and "State educational facilities agency" be expanded to permit the use of Boards. No change is necessary, as the proposed definitions allow the States discretion to use Boards if there is no agency currently in existence which is broadly representative of institutions in each category.

CONTENT OF A PRELIMINARY ENERGY AUDIT—The "Content of a preliminary energy audit" section defines the information requirements for this activity. This includes identification of the institution, basis for eligibility, description of the functional use of the building, owner of record, size, age, operating schedule, major energy using systems, building characteristics related to the potential use of solar energy or renewable resource measures, energy use and cost data by fuel type, energy use in Btu, an energy use index, and a brief description of energy conservation activities. Preliminary energy audits are to be conducted by States to establish the information base needed for development of State Plans which will be used in the subsequent phase of the grant programs to administer technical assistance and energy conservation measures, including solar energy or other renewable resource measures.

Three comments were made concerning the relevance of considering solar applications under this program. DOE is committed to early consideration of solar and other renewable resource applications. It must be recognized that detailed evaluations and specific recommendations can come only as a result of technical assistance work. The information gathered in the preliminary energy audit and energy audit phase should be useful for making a judgment as to whether a particular building has potential for solar energy or other renewable resource applications. Several data elements intended to provide information necessary to make a preliminary judgment about the potential for solar energy and renewable resource measures have been added to the preliminary energy audit requirements in the final rule so this important information is available for State use in preparing State plans for technical assistance and energy conservation measures, including solar energy or other renewable resource measures.

Suggestions were made that DOE expand this section to require the inclusion of such items as blueprints, drawings, and copies of previous reports. Such expansion would add

significantly to the cost of the preliminary energy audit with little benefit to the program. Two comments suggested the States be allowed to categorize buildings as they deem most suitable. However, consistency of building categories is necessary to allow DOE to aggregate the data for the nation. One comment recommended the energy use index include consideration of degree days. Again, this would increase the complexity of the preliminary energy audit, the cost of which appears to outweigh the potential benefits. One comment asked that preliminary energy audit reports be published. DOE does not agree this should be made a requirement, but it should be noted the results of the preliminary energy audits will be described in the State plan for technical assistance and energy conservation measures, including solar energy and other renewable resource measures, under the subsequent portion of the overall program. Of course, reports furnished to DOE will be available to the public in accordance with the Freedom of Information Act.

Four comments questioned the requirement for collecting energy use and cost information for the previous twelve month period. Three recommended allowing States discretion for selecting a year consistent with data availability and a potential need for uniformity. DOE accepted the suggestion and modified the text of the final rule accordingly. The fourth comment recommended collection of data for at least two years. More extensive data is desirable, but such a requirement would not be consistent with the need to perform preliminary energy audits economically.

Twenty-five comments were received concerning the Btu conversion factors. Most recommended adoption of a point-of-use conversion factor for electricity. As reflected in the proposal, DOE selected a conversion factor for electricity that approximates the energy required to generate and transmit a kilowatt hour of electricity. The conversion factor adopted for use in conducting preliminary energy audits results from comparisons of buildings which indicate that using an index of Btu per square foot can more accurately indicate conservation potential if electricity used is converted to the Btu's at the point of generation. The requirement for use of this conversion factor in the conduct of preliminary energy audits is not intended to preclude the use of different conversion factors for other purposes.

One comment requested DOE provide a list of existing audit techniques which it would consider acceptable for preliminary energy audits or energy audits. However, a determination as to whether the requirements of existing audit techniques are consistent with this rule, and whether the actual work associated with those audits met such requirements is dependent on the particular circumstances involved. States should be able to determine when previously accomplished work conforms to the requirements of this program.

CONTENT OF AN ENERGY AUDIT—

The energy audit is a brief on-site survey and analysis of a building, its energy use patterns, identification of opportunities for saving energy through implementation of operating and maintenance changes, and an assessment of its need for implementation of energy conservation measures, including solar energy or other renewable resource measures. The information regarding energy use patterns is the same as that required by a preliminary energy audit, except that it should provide further data needed for analysis of energy conservation potential. In addition, some data elements have been added as a result of concerns expressed by several comments that the proposed rule did not provide an adequate basis for making a judgment about solar or renewable energy resource potential. The identification of operating and maintenance procedure changes which could save energy is important because there are many such actions that can easily be identified and frequently save substantial amounts of energy. Finally, the energy audit is aimed at making an overall estimate of the potential for retrofit and solar or renewable resource applications. Some simple energy conservation measures may be analyzed to obtain an approximation of their costs and benefits. The results of the energy audit, in addition to providing recommendations to owners and managers concerning actions they can take to save energy at little or no cost, also provide basic information which will be used to select buildings to receive technical assistance grants under the later phases of the programs. In this respect, it is extremely important to audit as many buildings as possible because the information gathered serves as a basis for indicating priority of need for technical assistance which rigorously evaluates both solar energy and other conservation actions.

Five comments requested adopting requirements in this section for consideration of specific products or

additional operating and maintenance checks. DOE considers it inappropriate to specify consideration of named products, as this might be interpreted as an endorsement. DOE also concluded that expansion of the energy audit requirements would be unduly burdensome. Seven comments suggested the level of detail be reduced or that some items be made optional. DOE considers each item in the requirements for an energy audit to be justified, and some degree of consistency is essential to the effectiveness of the overall program by providing information which can be used to select buildings to receive technical assistance.

Eleven requests for clarification were received concerning subparagraph (b)(1) or § 450.43, which provides a waiver of the need to use the checklist in subparagraph (b)(2). As background, it should be understood that the purpose of this paragraph is to allow institutions which have aggressively pursued energy conservation through changes in operating and maintenance procedures to omit the portion of the energy audit requiring an evaluation of such actions. The 20 percent reduction in energy use specified is not a target which must be met through the energy audit. Neither is it intended that institutions be able to take credit for energy use reductions resulting from weather variances, retrofit actions, or changes in occupancy patterns. It was suggested that DOE set a base year in this section, but DOE is indifferent concerning the base year, so long as factors other than operating and maintenance actions are equivalent in the base year and the year of comparison. This section has been expanded in the final rule to require similarity of weather conditions in the base year and year of comparison.

Two comments asked whether a single specification for the content of an energy audit was appropriate in view of differing code and operational requirements. The requirements are stated in terms of principles which may be applicable to a greater or lesser degree as a result of codes or operating constraints. For example, consideration of lighting levels is required, but obviously the potential reduction differs for a drafting room as compared with a hallway. The applicable code and operating requirements are properly a matter to be covered as an element of State training. Accordingly, DOE has retained the provisions of the proposed rule.

Two comments were directed toward the requirement concerning the plan for scheduled preventive maintenance. The proposed rule, as published, did not

reflect DOE's objective merely to require the auditor to examine any existing scheduled preventive maintenance plan. This error has been corrected in the final rule.

Two comments stated objections to the provision that States could add requirements to those in the rule. DOE prefers to retain the provision because it gives States flexibility to consider items not listed which may facilitate the use of programs already in place or allow States to address problems peculiar to their circumstances. However, language has been added to make it clear that such additions shall not be so extensive as to significantly increase the cost of an energy audit.

Three comments asked that DOE establish a dollar limit to distinguish between an operating and maintenance action and a capital improvement. The practical difficulty is that most eligible institutions have their own limits which could vary from \$50 to \$5,000. In addition, the distinction is not critical to the conduct of an energy audit under these grant programs.

Eleven comments touched on the issue of audits performed without the use of Federal funds. There are no provisions under this program for reimbursement for work performed independently (a point discussed in more detail under the section on cost sharing). However, such audits may satisfy the prerequisite for application for a technical assistance grant, and that aspect of the issue will be addressed in conjunction with the final rule on the technical assistance portion of the overall program. One of the comments, however, went on to suggest that the rule allow any work done using the Public Schools Energy Conservation Survey (PSECS) to be accepted as an energy audit. This cannot be done for several reasons, but primarily because NECPA requirements cannot adequately be addressed short of an on-site examination which PSECS does not require. However, DOE does regard PSECS as a useful tool which can be used by States advantageously in conducting energy audits.

AUDITOR QUALIFICATIONS—The person conducting an energy audit must be familiar with the systems and operations of the type of building to be audited. He or she must also have received State training, or have education and experience such that the State determines training is unnecessary. The energy audit is to be conducted using materials provided by the State. The auditor need not be a professional architect or engineer so long as he or she meets the qualification requirements established by the State.

Seven comments suggested that only professional architects or engineers are qualified to conduct energy audits. Nine comments favored the proposed provision allowing use of technical personnel of less than professional stature. A major objective of those who suggest the use of professional personnel is to do a more thorough energy audit. This is worthwhile, but in many cases it would increase the cost of the energy audit significantly, which in turn would reduce the numbers of institutions which could receive assistance. DOE does not object to the use of professional personnel as such, and those institutions which are willing to pay any extra costs from their own resources should feel free to employ them. It was also suggested that only a professional could properly evaluate complex systems or assume responsibility for changes which could affect health and safety of building occupants. DOE concurs, but such considerations are not within the purview of an energy audit required under this program. Regarding complex systems, it is considered feasible for the energy auditor to identify conditions which could potentially save energy but which require professional judgment and expertise to evaluate. On the health and safety aspect, the results of the energy audit are recommendations only. Implementation is a prerogative of the building owner or manager, and consideration of health and safety implications are normally part of the building owner's or manager's responsibility. Those who supported the language of the proposed rule felt it was important to use their own personnel (except the operator of the building audited) to perform energy audits. DOE agrees, because training to perform energy audits should increase the capacity of the institution to manage its energy resources.

Several related suggestions were made concerning the possible use of engineers or architects as resources which could be called upon by the energy auditor in cases where he or she has a question, as supervisors for energy auditors, or at the State level in the development and implementation of the energy audit programs. DOE has partially adopted the last suggestion by adopting a provision that architects or engineers must be used in conducting auditor training, and further urges States to consider using professionals as resource personnel for supervision of groups of auditors. In a similar vein, two comments favored the use of a team to conduct energy audits, and one asked if the use of a team was a requirement.

Since the proposed language would permit States to employ professionals in the manner suggested and allows either an individual or a team to perform the energy audit, DOE has made no change.

Eight comments were received concerning the provision that energy audits be conducted by someone other than the person responsible for the day-to-day operation of the building. Opinion was equally divided between retaining and deleting the provision. Since the accuracy and extent of results from an energy audit depend on questions of whether and when actions are taken in operating the building, it is important to assure objectivity. Therefore, the provision has been retained. However, the provision is not intended to preclude building operators from participating in the audit if they are supervised by the energy auditor.

One comment suggested that the rule state classes of persons who are qualified to perform energy audits. This is a question which is better left to the discretion of the States and the language of the proposed rule has been retained. Another comment questioned whether the rule permitted only the use of "in-house" auditors or if an energy audit could be performed by contractors or State personnel. Any of these arrangements are permitted.

One comment pointed out that more complex buildings might require a more highly qualified auditor and suggested the States should be allowed to set requirements according to the need. Since the proposed rule merely says States will establish auditor qualifications, the approach recommended is permitted.

A question was raised concerning the provision for financial disclosure. This is not intended to prohibit any particular person from performing an energy audit, but only to assure disclosure of any potential biases. Neither does the requirement extend to quantification of a financial interest as in providing a financial statement. In general, if the energy auditor owns, has stock in, or is employed by (1) a firm which provides consulting services in the energy field, (2) a manufacturer of equipment which could save energy, or (3) an energy supplier, that fact should be stated in the audit report.

AUDIT REPORTS—The report on the results of the energy audit is a record of findings and recommendations. A copy of the report is to be submitted to the owner or manager of the building for such action as may be deemed appropriate. The report is also forwarded to the State for its use in

managing the program and reporting results.

DOE solicited suggestions on how owners and managers could be encouraged to act on recommendations resulting from energy audits. Four were received, and one that suggested the audit report advise owners and managers that implementation of recommendations would be a factor in considering applications for technical assistance support was incorporated into the final rule.

Information compiled by, or on behalf of, an eligible institution and contained in a preliminary energy audit or energy audit report shall be available for public release unless, in accordance with the Freedom of Information Act, a proper claim of confidentiality is made.

COST OF AN ENERGY AUDIT—The provisions governing cost limits are intended to be used for calculating the maximum amount of Federal assistance available for conducting an energy audit of any given building or complex. The limits were established to define the extent of the work involved and assure equitable treatment of all eligible institutions. They do not preclude States or institutions from spending more than the amounts cited, but all of the funds above these amounts must come from non-Federal sources. The cost limits recognize that more effort is required to audit a large building than a small building, but the scale is not based strictly on gross square feet. This is because a substantial part of the cost of an energy audit is expected to be the training of the energy auditor, and is the same regardless of building size. Also, larger buildings tend to have large sections which are duplicates of one another, so less effort per square foot is required.

Twenty-three comments were received which expressed the opinion the cost limits proposed were too low. Most favored increasing the allowance sufficiently to permit the use of professional personnel to conduct the energy audit. For reasons already discussed, DOE has not adopted that position. Three comments raised points considered valid by DOE. One was that buildings in remote locations could require an additional allowance to provide for the expense of travel. The second was that small institutions having only a few buildings would not be able to prorate the expense of sending an auditor to be trained and still conduct energy audits within the cost limits. Finally, it was suggested that some allowance be made for unusually complex buildings. The final rule incorporates an exception procedure

whereby the cost limits can be increased by a State to deal with these circumstances. However, a State may not use more than 15 percent of its allocation in any grant program cycle for such purposes.

Four comments suggested clarification of the provision for a complex, one of which also identified the need for a ceiling on the allowance for a complex. Changes have been made in the final rule in response to these comments.

FINANCIAL ASSISTANCE—The financial assistance section states to whom grants may be awarded.

Six comments suggested the rule provide a mechanism whereby units of local government and public care institutions could apply directly to DOE for grant assistance. DOE has retained the proposed procedure to promote timely administration of the grant program. This objective can best be assured by allowing each State to process all requests for financial assistance.

COST SHARING—The preliminary energy audit/energy audit program is a matching grant program. This section deals with the requirement for matching funds, an exception procedure, credit to States for certain energy audit program costs and sources of matching funds.

Twenty-three comments were received concerning the provisions governing Federal matches above the 50 percent level. Eight of these wanted the rule to provide for grants in excess of the 50 percent limit for units of local government and public care institutions, as is allowed for schools and hospitals. Such action would go beyond the authority of NECPA. The balance of the comments primarily sought clarification of the manner in which the exception provision operates. An illustration should suffice. Suppose a State's preliminary energy audit and energy audit allocation is \$200,000, of which no more than 25 percent, or \$50,000, is to be used by the State for conducting preliminary energy audit, providing training of energy auditors and managing the program. Assume further that this State can arrange for matching funds from institutions in the amount of \$150,000 to match the amount available to conduct energy audits, but has only \$20,000 available for its match and requests a partial waiver of the 50 percent match provision giving as justification that the additional funds can be obtained only through appropriation by the State legislature, and not from any other source, and that the legislature is not scheduled to meet for six months. Should DOE accept this justification, the State would receive a

grant of \$200,000. Because it did not fully match the \$50,000, the amount of the unmatched funds, \$30,000, would be deducted from the State's future allocations for technical assistance and energy conservation measures and redistributed to all other States. Because the preliminary energy audit and energy audit program plays a fundamental role in the preparation of State Plans and selection of candidates for technical assistance, as well as providing significant potential energy savings from energy audits, DOE intends to waive the 50% match requirement only where essential to allow States to participate in the program, and then only to the extent clearly justified by the State. Further, any relaxation of the match requirements results in a lesser amount being available to do the audits. In the example above, were the State to make its 50 percent match, there would be \$100,000 available instead of \$70,000 to cover preliminary energy audits and other State expenses.

Three comments suggested that the goods or services acceptable as an in-kind match be specified in the rule. The omission of such a list was deliberate, and places no restrictions on in-kind contributions other than those imposed by the Office of Management and Budget Circular A-102, dated September 12, 1977 (42 FR 45828), entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments".

One comment asked whether the match had to be made on each energy audit, or if the State could simply assure the requirement was met on a Statewide basis. The rule requires the match be met on each energy audit to meet requirements of NECPA and to assure equitable distribution of funds among eligible institutions.

Sixteen comments asked for a change to the provision of the proposed rule concerning credit for work already accomplished. Most wanted a date earlier than November 9, 1978; of these, several mentioned April 20, 1977. Additionally, it was suggested that the provision be broadened to include activities beyond those related to preliminary energy audits. DOE has not adopted the suggestion with regard to the date change. The conference committee report accompanying NECPA indicates that project costs incurred prior to November 9, 1978, are not to be considered eligible for grant funding. Suggestions to broaden coverage of this provision were partially adopted. States may request that the cost of work commenced on or after November 9, 1978, in the conduct of preliminary

energy audits and energy audits be counted toward their matching requirements, and the Secretary may allow such requests, when, in her or his judgment, the work has substantially contributed to early achievement of program objectives.

Two comments questioned whether or not medicare and medicaid funds are considered to be derived from other than Federal sources. For purposes of this rule and to the extent that such payments are made as reimbursements for services rendered to individuals, such monies are not considered by DOE to be Federal funds for State matching purposes. DOE recognizes that other situations may occur, as in the case of funds available from Federal loans or payments made in lieu of taxes. DOE will consider these on a case-by-case basis. Six comments requested deletion of the restriction on use of funds from Federal sources entirely. This is not possible because of NECPA limitations.

ALLOCATION OF FUNDS—The allocation of funds section states the method by which DOE will allocate funds among States. There are two separate appropriations, one for schools and hospitals and another for units of local government and public care institutions. A single formula is used, and the amount available to each State is determined by multiplying the allocation factor resulting from the formula by the amount appropriated.

Nineteen comments received pertained to the allocation formula. Most suggested greater weight be placed on climate, especially heating degree days. One objective of the program is to audit as many eligible buildings as possible. Also, climate is not a major consideration with respect to energy savings which may be possible through changes in operating and maintenance procedures. Several related comments recommended modifying the calculation of cooling degree days by raising the base temperature. While in some buildings cooling is not required until the outside temperature reaches 70° or 75°, others require cooling at temperatures well below 65°. For these reasons, DOE did not change the weight given climate, and the 65° base has been retained in the allocation formula.

In the course of investigating the comments on this subject, some errors were discovered in the climate data published in the proposed rule. These have been corrected, and a revised Table 2 is presented below to display the results. Because the data also affect the allocation factor, a revised Table 3 is also presented.

TABLE 2

State	Heating degree (days)	Cooling degree (days)	State share (HDD + CDD)	State share x .2
Alabama	2,695	1,999	0.0135	0.0027
Alaska	12,012	8	0.0346	0.0069
Arizona	2,298	2,624	0.0142	0.0028
Arkansas	3,214	1,892	0.0147	0.0029
California	2,728	669	0.0098	0.0020
Colorado	7,004	336	0.0211	0.0042
Connecticut	6,130	507	0.0191	0.0038
Delaware	4,780	1,021	0.0167	0.0033
District of Columbia	4,750	1,415	0.0177	0.0035
Florida	704	3,368	0.0117	0.0023
Georgia	2,684	1,859	0.0131	0.0026
Hawaii	0	3,528	0.0101	0.0020
Idaho	6,917	415	0.0211	0.0042
Illinois	6,058	950	0.0202	0.0040
Indiana	5,713	952	0.0192	0.0038
Iowa	6,834	876	0.0222	0.0044
Kansas	4,900	1,543	0.0185	0.0037
Kentucky	4,414	1,254	0.0163	0.0033
Louisiana	1,701	2,636	0.0125	0.0025
Maine	8,002	222	0.0237	0.0047
Maryland	4,782	1,015	0.0167	0.0033
Massachusetts	6,232	467	0.0193	0.0039
Michigan	6,739	593	0.0211	0.0042
Minnesota	8,729	473	0.0265	0.0053
Mississippi	2,411	2,223	0.0133	0.0027
Missouri	5,024	1,332	0.0183	0.0037
Montana	8,292	239	0.0245	0.0049
Nebraska	6,347	1,099	0.0214	0.0043
Nevada	4,370	1,500	0.0169	0.0034
New Hampshire	7,535	297	0.0225	0.0045
New Jersey	5,470	877	0.0183	0.0037
New Mexico	4,766	972	0.0165	0.0033
New York	5,899	677	0.0189	0.0038
North Carolina	3,392	1,454	0.0139	0.0028
North Dakota	9,484	421	0.0285	0.0057
Ohio	5,779	797	0.0189	0.0038
Oklahoma	3,508	2,003	0.0158	0.0032
Oregon	5,254	193	0.0157	0.0031
Pennsylvania	5,755	723	0.0186	0.0037
Rhode Island	5,924	445	0.0183	0.0037
South Carolina	2,697	1,885	0.0132	0.0026
South Dakota	7,681	801	0.0244	0.0049
Tennessee	3,801	1,458	0.0151	0.0030
Texas	2,015	2,669	0.0135	0.0027
Utah	6,580	630	0.0207	0.0041
Vermont	7,873	293	0.0235	0.0047
Virginia	4,286	1,113	0.0155	0.0031
Washington	5,752	171	0.0170	0.0034
West Virginia	5,108	849	0.0171	0.0034
Wisconsin	7,531	541	0.0232	0.0046
Wyoming	7,895	326	0.0236	0.0047
American Samoa	0	5,325	0.0153	0.0031
Guam	0	5,011	0.0144	0.0029
Puerto Rico	0	4,907	0.0141	0.0028
Virgin Islands	0	5,427	0.0156	0.0031
U.S. total	270,449	77,280	1.0000	0.2000

TABLE 3

State	.1x1/N+.7xSP/NP+.2xSC/NC=Allocation factor			
Alabama.....	.0018	.0118	.0027	.0163
Alaska.....	.0018	.0012	.0069	.0100
Arizona.....	.0018	.0073	.0028	.0119
Arkansas.....	.0018	.0068	.0029	.0115
California.....	.0018	.0692	.0020	.0729
Colorado.....	.0018	.0083	.0042	.0143
Connecticut.....	.0018	.0100	.0038	.0157
Delaware.....	.0018	.0019	.0033	.0070
District of Columbia.....	.0018	.0023	.0035	.0076
Florida.....	.0018	.0271	.0023	.0312
Georgia.....	.0018	.0160	.0026	.0204
Hawaii.....	.0018	.0029	.0020	.0067
Idaho.....	.0018	.0027	.0042	.0087
Illinois.....	.0018	.0361	.0040	.0419
Indiana.....	.0018	.0170	.0038	.0227
Iowa.....	.0018	.0092	.0044	.0155
Kansas.....	.0018	.0074	.0037	.0129
Kentucky.....	.0018	.0110	.0033	.0161
Louisiana.....	.0018	.0123	.0025	.0167
Maine.....	.0018	.0034	.0047	.0100
Maryland.....	.0018	.0138	.0033	.0185
Massachusetts.....	.0018	.0187	.0039	.0243
Michigan.....	.0018	.0293	.0042	.0353
Minnesota.....	.0018	.0127	.0053	.0199
Mississippi.....	.0018	.0076	.0027	.0120
Missouri.....	.0018	.0154	.0037	.0208
Montana.....	.0018	.0024	.0049	.0091
Nebraska.....	.0018	.0050	.0043	.0111
Nevada.....	.0018	.0020	.0034	.0072
New Hampshire.....	.0018	.0026	.0045	.0090
New Jersey.....	.0018	.0236	.0037	.0290
New Mexico.....	.0018	.0038	.0033	.0089
New York.....	.0018	.0581	.0038	.0637
North Carolina.....	.0018	.0176	.0028	.0222
North Dakota.....	.0018	.0021	.0057	.0096
Ohio.....	.0018	.0344	.0038	.0400
Oklahoma.....	.0018	.0089	.0032	.0139
Oregon.....	.0018	.0075	.0031	.0124
Pennsylvania.....	.0018	.0381	.0037	.0437
Rhode Island.....	.0018	.0030	.0037	.0085
South Carolina.....	.0018	.0092	.0026	.0136
South Dakota.....	.0018	.0022	.0049	.0089
Tennessee.....	.0018	.0135	.0030	.0184
Texas.....	.0018	.0401	.0027	.0446
Utah.....	.0018	.0039	.0041	.0099
Vermont.....	.0018	.0015	.0047	.0080
Virginia.....	.0018	.0162	.0031	.0211
Washington.....	.0018	.0116	.0034	.0168
West Virginia.....	.0018	.0059	.0034	.0111
Wisconsin.....	.0018	.0148	.0046	.0213
Wyoming.....	.0018	.0013	.0047	.0078
American Samoa.....	.0018	.0001	.0031	.0050
Guam.....	.0018	.0003	.0029	.0050
Puerto Rico.....	.0018	.0095	.0028	.0141
Virgin Islands.....	.0018	.0003	.0031	.0052
U.S. total.....	.1000	.7000	.2000	1.0000

While a building census would be the ideal basis for the major factor in the allocation formula, reliable and generally accepted data are not available. DOE is required by NECPA to consider population and climate, and has weighted population most heavily because it is the best available indicator of building numbers. One comment pointed out that more densely populated States are likely to have fewer, but larger, buildings per capita than other States. However, the equal share portion of the formula has a countervailing effect. Another comment suggested increasing the amount to be shared equally, but that would give less populous States far more than an equitable share of the funds on a per capita basis. For these reasons, the allocation formula set forth in the proposed rule has been retained.

SUBMISSION AND REVIEW OF APPLICATIONS—This section states the procedures which shall be used in submitting and processing grant applications under this Subpart.

Six comments stated the time allowed for submission of applications in the first grant program cycle is not sufficient. It would be preferable if circumstances were such that more time could be made available for the preparation and submission of applications. However, NECPA requires that preliminary energy audits be conducted and the results incorporated in State Plans required for later phases of this program shortly after publication of the applicable final rule. The timetable is such that, at best, there are about 120 days available in which to conduct preliminary energy audits. Extending the time for submission of preliminary energy audit/energy audit applications would almost certainly require a later submission of State Plans. The requirement for submission of applications was retained. However, while DOE discourages such requests, both the proposed and final rule provide the States may request and be granted additional time if necessary.

Five comments requested an avenue be established for units of local government and public care institutions to appeal to DOE during the review period when a State application is considered unsatisfactory by such institutions. DOE does not anticipate a need for such a procedure. However, should an eligible institution be aggrieved by any action taken by either a State or DOE with respect to this program, such grievances may be presented to either a State or DOE, or

both. Eight other comments suggested strengthening the provisions for consultation with representatives of affected institutions prior to submission of the State application. One recommended that public hearings be required. However desirable and beneficial more extensive consultation might be, the time limits on submitting the application preclude making this requirement more stringent.

Five comments recommended reducing the number of copies of the application required to be submitted. The provision of the proposed rule has been changed to require one instead of ten copies. One comment requested the Governor be allowed to delegate authority to sign the State application. The definition of the term "Governor" includes his designee, so there is no bar to such delegation of authority.

CONTENT OF APPLICATION—The time limit for submitting applications is also reflected in the content of the application. A large part of the application must necessarily be a statement of how the State intends to implement the program, rather than a detailed description of what has been done in preparation. An example of the distinction can be seen in the provision for equitable apportionment of allotted funds among eligible institutions. Because of the time constraints, the application is to describe how the funds are to be apportioned. For example, to assure equitable treatment of rural institutions as compared with urban institutions, a State could indicate it planned to allot funds proportionally to the gross square feet of buildings owned by eligible institutions. Were more time available, the provision would more likely call for the amounts apportioned to each sub-category of eligible institutions. Similarly, the provision requiring disclosure of the sources, amounts, and intended use of non-Federal funds is to be taken as a description of sources of the funds to be obtained by both the State and participating institutions, rather than an identification of institutions by name and the amounts each is to contribute. The information requested in the application is a result of the provisions of NECPA, the requirements of the Office of Management and Budget, and DOE program management requirements. This information is the minimum necessary to provide adequate information on which to base a decision to approve or disapprove an application.

Eight comments were directed toward the provision for conducting preliminary energy audits on a sampling basis. It was recommended that the rule provide

the method for sampling. Such guidance is not appropriate for incorporation in the rule. DOE will provide such a methodology to States for their consideration and possible use.

Nine comments suggested DOE set minimum requirements for auditor training. The proposed rule made this primarily a State responsibility since States are best able to deal with a number of significant variables including code requirements, programs already in place, level of qualifications required and the material adopted for conducting energy audits. Accordingly, this provision of the proposed rule has been retained in the final. However, the provision has been expanded to require that States use professional architects or engineers to participate in conducting the training sessions.

Two comments suggested that regional commissions or other coordinating bodies be allowed to apply on behalf of groups of eligible institutions. DOE has no objection to State development and use of such procedures. Such an arrangement must, of course, be acceptable to the affected institutions as well. One comment expressed a general concern about equity of treatment of rural institutions relative to urban institutions. The rule requires States to develop and describe procedures for equitable allocation of funds when resources are insufficient to provide energy audits to all eligible institutions. It will be DOE's responsibility to review the equity aspects of these State procedures.

Two comments objected to allowing States to conduct energy audits or provide services to support the conduct of energy audits as well as making grant funds available to the institutions to conduct the energy audits. It was suggested the rule require States to make grant funds available to eligible institutions. DOE agrees in principle that the intent of these programs is to assure preliminary energy audits and energy audits of eligible institutions, and that making funds available to eligible institutions may be the preferred method for conducting energy audits. At the same time, however, there are circumstances under which a cash payment would be less economical than some alternative method of conducting an energy audit. In other cases, an institution might not have the capability or desire to conduct its own energy audit. Accordingly, language has been added to the rule which requires that a State specify in its application the procedures by which assistance will be provided to institutions willing and able to undertake their own energy audits.

Two comments suggested that States be required to notify institutions of the availability of assistance and the amounts. There is a requirement for a State to institute such a notification as part of its implementation, and this has been made explicit in the final rule. Also, States should plan to use preliminary energy audit and energy audit funds within one year of the date of the notice of grant award, in order that the technical assistance and energy conservation measures phase of the program can be implemented quickly. One comment suggested a requirement that persons administering the program at the State level have at least one year's experience managing a building. DOE prefers to allow States maximum latitude to use personnel having backgrounds which will enable the State to implement the programs quickly and effectively. Therefore, this suggestion was not adopted. One comment raised a question as to whether it is reasonable to require State adoption of specific material, such as a workbook, for the conduct of energy audits before the State application is submitted. This question appears to stem from a misunderstanding of the provision which requires a State to describe the material it intends to adopt to conduct energy audits. Such a description is not considered excessively onerous. A copy of the material finally adopted is required to be submitted with a State's second quarterly report.

USE OF FUNDS—NECPA imposed a number of constraints on the manner in which funds may be used in this program. Other limits such as the requirement that at least 75 percent of the State allocation be used in conducting energy audits, are established by DOE in support of the objectives of the program.

Twenty comments were received concerning the sublimits placed on the use of funds within the 25 percent maximum available to the State for administrative expenses, development of materials, training of personnel, conduct of preliminary energy audits, monitoring and evaluation. There was general agreement the 25 percent limit was appropriate, but several States pointed out that alternative methods of implementation could be used. Depending on the degree of emphasis placed on various activities, some effective and economical methods of implementation might be excluded if the sublimits contained in the proposed rule were retained in the final rule. DOE has reconsidered, and the sublimits have been removed from the final rule. Also, from a number of comments it was clear

there was some confusion about whether the costs of training auditors were to be borne by the State or charged to the performance of energy audits. It is intended that the time and expense of the individuals being trained be charged to the expense associated with the performance of energy audits. Only the time and expense of the instructor, and the cost of the materials, space, and related expenses are considered training expenses chargeable to the State. This point is clarified in the final rule.

One comment questioned what level of sampling would be considered adequate in connection with the State responsibility for quality control and follow-up to determine the extent to which recommendations in the energy audit have been implemented. The number chosen for purposes of this monitoring and evaluation sample will depend on variables such as the number of trained auditors available. As a general rule, a sample of between one and five percent should be adequate. Within these limits, the State should select a sample size it considers appropriate to the purpose.

Two comments criticized the limitation on amounts which could be spent for equipment, favoring an increase to \$500. The energy audit is not intended to be a complex procedure, and there should be a little need for expensive equipment. DOE has adopted in the final rule a limit of \$300, consistent with the definition of non-expendable personal property contained in the Office of Management and Budget Circular A-102. Moreover, in exceptional situations where a more expensive item can be justified, provision is made to allow a State to request DOE approval for such expenditure.

One comment questioned whether State expenses in preparing an application are allowable expenses under the proposed rule. DOE considers that such expenses may be allowable as part of the State's matching contribution under the provisions of paragraph (c) of section 455.12. Another comment suggested that seasonal use buildings should be eligible for financial assistance under this program. The limitation stems from the language of NECPA and cannot be changed by DOE. One comment recommended a minimum building size or energy use level be established as a requirement to qualify for energy audit assistance. While such a provision would perhaps enable the program to focus more on buildings having a higher potential for saving energy, it does not seem consistent with the concern for equitable treatment of

eligible institutions expressed in NECPA. DOE has, therefore, not adopted such a provision. Four comments were received suggesting there is no reason to exclude the administrative buildings of local educational agencies. DOE has reconsidered the provision, and deleted it from the final rule.

REPORT REQUIREMENTS—DOE regards the reporting requirements incorporated in the rule as the minimum necessary for evaluating the program and tracking State progress in meeting its implementation schedule.

Reasonably frequent reporting is a necessity because the preliminary energy audit and energy audit phase of the program will be of short duration.

One comment suggested consolidating the reports required under this program with other reports associated with State grant programs. Because there is little, if any, duplication of information anticipated, DOE has not adopted this approach.

COMMENTS RELATIVE TO TECHNICAL ASSISTANCE AND ENERGY CONSERVATION MEASURES—Forty comments were received which touched on matters associated with the proposed rulemaking governing programs for technical assistance and energy conservation measures published January 5, 1979. For example, comments have been received regarding the definition of "energy conservation measure", procedures for applying for a technical assistance grant, and provisions for using energy audits performed without the use of Federal funds to qualify for technical assistance. These comments are being held and will be considered together with other comments received on that proposed rulemaking.

MISCELLANEOUS—There were a number of comments made about various aspects of the program which cannot be adequately addressed in the context of a specific section or provision, but which are worthy of response.

Four comments proposed that the rule be modified to eliminate duplication between the preliminary energy audit and energy audit so that there is only one inspection of a building under this program. DOE does not anticipate an on-site inspection by a trained auditor will be required to obtain the preliminary energy audit information.

Another set of four comments complained of the multiplicity of activities under the term "energy audit". While acknowledging the possibility of confusion, the terms for this program are

defined by NECPA. In the development of this regulation, an effort has been made to achieve consistency to the extent possible between this program and others of a similar nature.

Three commenters suggested DOE place limits on itself in terms of time to process State applications. Uncertainties remain, including the prospect that some discussions with the States will be necessary after receipt of applications, which makes the establishment of such time limits impractical. However, State applications will be processed as rapidly as possible.

One commenter requested all information concerning the funds available under the program, the timing and relationship between preliminary energy audits, energy audits, technical assistance, and energy conservation measures be made available as soon as possible. DOE is aware of this need and will make this information broadly available as quickly as possible.

Three comments touched on the possibility of transferring funds from the technical assistance and energy conservation measures phase of the overall program to perform energy audits. Such action is clearly beyond the scope of the NECPA authority.

Three comments asked that DOE incorporate forms and procedures in the final rule. States will be invited by letter to participate in this program, and the forms and procedures will be provided by DOE at that time. Two comments suggested that funds for fiscal years 1978 and 1979 be made available in the initial State allocations. DOE has decided against such a consolidation in the interest of sound fiscal administration. Congress has appropriated \$200 and \$100 million for schools and hospitals in fiscal years 1978 and 1979, respectively. The amount appropriated for units of local government and public care institutions is \$25 and \$7 million for fiscal years 1978 and 1979, respectively.

Three comments highlighted an apparent inconsistency between the language of § 455.1 and § 455.11. Section 455.1 is general and applies to both preliminary energy audits and energy audits, and to technical assistance and energy conservation measures, while § 455.11 applies only to preliminary energy audits.

As noted in the preamble to the proposed rule, DOE has proposed a rule on nondiscrimination in Federally assisted programs (10 CFR Chapter X, 43 FR 53658, November 16, 1978). When issued as a final rule, detailed guidance will be provided concerning actions necessary to comply with

nondiscrimination requirements in all DOE assistance programs. It will apply to this part under the provisions of section 455.3(b). DOE intends to provide a copy of this final rule to all grant recipients under this program. If the necessary civil rights actions are not taken, the grant will be subject to suspension or termination.

D. Environmental Assessment

DOE prepared an environmental assessment of the entire Title III NECPA programs. Notice of the public availability of that environmental assessment, together with the negative determination of environmental impact reached pursuant to an evaluation of the environmental assessment, was published in the *Federal Register* on March 12, 1979 (44 FR 13554). The negative determination concluded that the Title III NECPA programs did not constitute major Federal actions significantly affecting the quality of the human environment pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*). No material comments were received during the public comment and review. Consequently, DOE will act in accordance with that negative determination.

In consideration of the foregoing, Part 450 of Chapter II, Title 10 of the Code of Federal Regulations is amended as follows, and a new Part 455 is added to Chapter II, Title 10 of the Code of Federal Regulations as set forth below. In light of NECPA requirements that this regulation be issued within a specific period after enactment, and in consideration of the urgent need to initiate preliminary energy audits, good cause exists to make this regulation effective upon publication, as indicated in the proposed rule, rather than 30 days thereafter as would otherwise be required by the Administration Procedures Act. Accordingly, these amendments and additions shall be effective upon publication in the *Federal Register*.

Issued in Washington, D.C., March 26, 1979.

Maxine Savitz,

Deputy Assistant Secretary, Conservation and Solar Applications, Department of Energy.

1. In 10 CFR Part 450, the authority is revised as follows:

Authority: Part C of Title III, Energy Policy and Conservation Act, (42 U.S.C. 6321 *et seq.*), as amended by Part B of Title IV, Energy Conservation and Production Act, and Parts G and H of Title III, Energy Policy and Conservation Act, as added by Title III of the National Energy Conservation Policy Act, 92

Stat. 3206 *et seq.*; Department of Energy Organization Act, (42 U.S.C. 7101 *et seq.*)

PART 450—ENERGY MEASURES AND ENERGY AUDITS

§ 450.1 [Amended]

2. 10 CFR 450.1 is amended by designating the provisions of the first sentence as paragraph (a), the second sentence as paragraph (b) and deleting the word "also" following the word "part" in that sentence, and adding a new paragraph (c) as follows:

(c) This part also provides the requirements for the conduct of preliminary energy audits and energy audits in accordance with Section 393 and Section 400 C of the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6321, as amended by Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*

§ 450.2 [Amended]

3. 10 CFR 450.2 is amended to add a new paragraph (d) as follows:

(d) To establish minimum requirements for the preliminary energy audits and energy audits to be carried out under the program of financial assistance for schools and hospitals and the program of financial assistance for units of local government and public care institutions.

§ 450.3 [Amended]

4. 10 CFR 450.3 is amended by deleting the definitions of "Administrator", "Cooling degree days", "FEA", "Heating degree days", "Regional Administrator" and by adding in the appropriate alphabetical order definitions of "Cooling degree days", "DOE", "Heating degree days", "Regional Representative" and "Secretary" as follows:

"Cooling degree days" means the annual sum of the number of Fahrenheit degrees of each day's mean temperature above 65° for a given locality.

"DOE" means the Department of Energy.

"Heating degree days" means the annual sum of the number of Fahrenheit degrees of each day's mean temperature below 65° for a given locality.

"Regional Representative" means a Regional Representative of the Department of Energy.

"Secretary" means the Secretary of the Department of Energy.

§ 450.21 [Revised]

5. Paragraph (b)(5) of 10 CFR 450.21 is revised to read as follows:

* * *

(b) * * *

(5) For the purposes of paragraph (b)(4) of this section, the conversion factors set forth in paragraph (a)(12) of § 450.42 shall be used.

6. 10 CFR Part 450 is amended by establishing a new Subpart E as follows:

Subpart E—Preliminary Energy Audits and Energy Audits

Sec.

450.40 Purpose and scope.

450.41 Definitions.

450.42 Contents of a preliminary energy audit.

450.43 Contents of an energy audit.

450.44 Auditor qualifications.

450.45 Audit reports.

450.46 Cost of energy audits.

Authority: Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*, which establishes Parts G and H of Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6321 *et seq.*; Sec. 365(e)(2), 42 U.S.C. 6325(e)(2), of the Energy Conservation and Production Act, Pub. L. 94-385, 42 U.S.C. 3801 *et seq.*; Department of Energy Organization Act, Pub. L. 95-91, 42 U.S.C. 7101 *et seq.*

Subpart E—Preliminary Energy Audits and Energy Audits

§ 450.40 Purpose and scope.

This subpart establishes requirements for the conduct of preliminary energy audits and energy audits, the qualifications of persons conducting them and allowable costs of energy audits. Preliminary energy audits and energy audits are required in the program of financial assistance for schools and hospitals and the program of financial assistance for units of local government and public care institutions, as provided under Subpart B, Part 455, Chapter II of Title 10, Code of Federal Regulations.

§ 450.41 Definitions.

For purposes of this subpart—

"Building" means any structure, the construction of which was completed on or before April 20, 1977, which includes a heating or cooling system, or both.

"Complex" means a closely situated group of buildings on a contiguous site or a closely situated group of buildings served by a central utility plant, such as a college campus or a multi-building hospital.

"Construction completion" means the date of issuance of an occupancy permit for a building.

"Energy audit" means a survey of a building or complex that is conducted in accordance with the requirements of this subpart which—

(1) Identifies the type, size, energy use level and the major energy using systems;

(2) Determines appropriate energy conservation maintenance and operating procedures; and

(3) Indicates the need, if any, for the acquisition and installation of energy conservation measures, including solar energy and other renewable resource measures.

"Energy conservation maintenance and operating procedure" means modifications in the maintenance and operating procedures of a building, and any installations therein, which are designed to reduce energy consumption in such building and which require no significant expenditure of funds.

"Energy conservation measure" means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including, but not limited to—

(1) Insulation of the building structure and systems within the building;

(2) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

(3) Automatic energy control systems;

(4) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(5) Active or passive solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(6) Active or passive solar water heating systems;

(7) Furnace or utility plant and distribution system modifications including—

(A) Replacement burners, furnaces, boilers, or any combination thereof, which substantially increase the energy efficiency of the heating system;

(B) Devices for modifying flue openings which will increase the energy efficiency of the heating system;

(C) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights; and

(D) Utility plant system conversion measures including conversion of

existing oil- and gas-fired boiler installations to alternative energy sources, including coal;

(8) Caulking and weatherstripping;

(9) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a building, unless such increase in illumination is necessary to conform to any applicable State or local building code or, if no such code applies, the increase is considered appropriate by the Secretary;

(10) Energy recovery systems;

(11) Cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or a complex of buildings owned by a school or hospital and which meet such fuel efficiency requirements as the Secretary may by rule prescribe;

(12) Such other measures as the Secretary identifies by rule for purposes of this part, as set forth in Subpart D of this part; and

(13) Such other measures as a grant application shows will save a substantial amount of energy and as are identified in an energy audit in accordance with Subpart C of this part.

"Fuel" means any commercial source of energy used within the building or complex being surveyed such as natural gas, fuel oil, electricity or coal.

"Gross square feet" means the sum of all heated or cooled floor areas enclosed in a building, calculated from the outside dimensions, or from the centerline of common walls.

"Heating or cooling system" means any mechanical system for heating or cooling areas of a building. For purposes of this subpart, any mechanical system for distributing air throughout the building is considered a cooling system.

"Hospital" means a public or nonprofit institution which is a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and is duly authorized to provide hospital services under the laws of the State in which it is situated.

"Hospital facilities" means buildings housing a hospital and related facilities, including laboratories, laundries, outpatient departments, nurses' home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions personnel operated as an integral part of a hospital.

"Indian tribe" means any tribe, band, nation, or other organized group or

community of Indians, including any Alaska native village, or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92-203; 85 Stat. 688, which (a) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or (b) is located on, or in proximity to, a Federal or State reservation or rancheria.

"Local educational agency" means a public board of education or other public authority or a non-profit institution legally constituted within, or otherwise recognized by, a State for either administrative control or direction of, or to perform administrative services for, a group of schools within a State.

"Maintenance" means activities undertaken in a building to assure that equipment and energy-using systems operate effectively and efficiently.

"Operating" means the operation of equipment and energy-using systems in a building to achieve or maintain specified levels of environmental conditions or service.

"Preliminary energy audit" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy-using systems of such building.

"Public care institution" means a public or non-profit institution which owns—

(1) A facility for long-term care, rehabilitation facility, or public health center, as described in Section 1633 of the Public Health Service Act (42 U.S.C. 300s-3; 88 Stat. 2270);

(2) A residential child care center, which is an institution, other than a foster home, operated by a public or non-profit institution and is primarily intended to provide full-time residential care with an average length of stay of at least 30 days for at least 10 minor persons who are in the care of such institution as a result of a finding of abandonment or neglect or of being persons in need of treatment or supervision.

"Public or nonprofit institution" means an institution owned and operated by—

(1) A State, a political subdivision of a State or an agency or instrumentality of either;

(2) A school or hospital which is, or would be in the case of such entities situated in America Samoa, Guam, Puerto Rico and the Virgin Islands, exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1954; or

(3) A unit of local government or a public care institution which is, or would be in the case of such entities situated in America Samoa, Guam, Puerto Rico and the Virgin Islands, exempt from income tax under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

"School" means a public or nonprofit institution which—

(1) Provides, and is legally authorized to provide, elementary education or secondary education, or both on a day or residential basis;

(2)(A) Provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

(B) Admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

(C) Is accredited by a nationally recognized accrediting agency or association; and

(D) Provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the preceding requirements and which provides such a program;

(3) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions cited in subdivisions (A), (B), and (C) of subparagraph (2) above; or

(4) Is a local education agency.

"School facilities" means buildings housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

"State" means, in addition to the several States of the Union, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"Unit of local government" means the government of a county, municipality, parish, borough, or township, which is a unit of general purpose government below the State, determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes; the District of Columbia, American Samoa, Guam and the Virgin Islands; the recognized governing body of an Indian tribe which governing body performs substantial governmental functions; libraries owned by any of the foregoing; and public libraries which serve all residents of a political subdivision below the State level, such as a community, district or

region, free of charge and which derive at least 40 percent of their operating funds from tax revenues of a taxing authority below the State level.

§ 450.42 Contents of a preliminary energy audit.

(a) A preliminary energy audit shall provide a description of the building or complex audited and determine its energy-using characteristics, including—

(1) The name or other identification, and address of the building;

(2) A statement that the building meets the requirements of one of the following categories—

(i) A school facility;

(ii) A hospital facility; or

(iii) A building owned and primarily occupied either by offices or agencies of a unit of local government or by a public care institution, neither of which shall include any building intended for seasonal use or any building used primarily by a school or hospital;

(3) A description of the functional use made of the building identifying whether it is a—

(i) School—

(A) Elementary;

(B) Secondary;

(C) College or university;

(D) Vocational;

(E) Local education agency administrative building; or

(F) Other;

(ii) Hospital—

(A) General;

(B) Tuberculosis; or

(C) Other;

(iii) Local government building—

(A) Office;

(B) Storage;

(C) Service;

(D) Library;

(E) Police station;

(F) Fire station; or

(G) Other; or

(iv) Public care building—

(A) Nursing home;

(B) Long term care other than a nursing home;

(C) Rehabilitation facility;

(D) Public health center; or

(E) Residential child care center;

(4) The name and address of the owner of record, indicating whether owned by a public institution, private nonprofit institution or an Indian tribe;

(5) The size of the building, expressed in gross square feet;

(6) The age of the building;

(7) Approximate daily hours of operation, including periods of partial use if applicable;

(8) An indication of whether the building is partially used during vacation periods or other times when

the building is not fully utilized, for periods of a week or more, by quarter;

(9) An identification of major energy-using systems, including—

(i) Type of heating system or cooling system or both;

(ii) Fuel used for heating system, cooling system;

(iii) Fuel used for domestic hot water, such as electric or natural gas;

(iv) Special energy using systems, such as food service or laundry; and

(v) Lighting, such as incandescent or fluorescent;

(10) Fuel use in physical units and cost data by type for a preceding 12 month period, by month if practicable, using actual data or an estimate if actual figures are unavailable;

(11) Total annual energy use expressed in Btu's per gross square foot and energy cost per gross square foot. Energy use shall be calculated using the conversion factors set forth below—

(i) Electricity—11,600 Btu per kilowatt hour.

(ii) Natural gas—1,030 Btu per cubic foot.

(iii) Distillate fuel oil—138,690 Btu per gallon.

(iv) Residual fuel oil—149,690 Btu per gallon.

(v) Coal—24.5 million Btu per standard short ton.

(vi) Liquefied petroleum gases including propane and butane—95,475 Btu per gallon.

(vii) Steam—1,390 Btu per pound.

Conversion factors may be taken from engineering reference manuals for fuels not listed.

(b) A preliminary energy audit shall provide a brief description of activities which have been undertaken to conserve energy in the building or complex being audited, including whether—

(1) A person has been designated to monitor and evaluate energy use;

(2) Work partially or fully satisfying the requirements of an energy audit has been performed;

(3) Detailed studies have been conducted by architects, engineers or architect-engineer teams of energy use and energy conservation; and

(4) Any major energy conservation measures have been implemented, together with a listing of such measures, and estimates of their costs and energy savings if available.

(c) A preliminary energy audit shall provide information regarding site, building, and heating and hot water systems related to solar energy or other renewable resource potential including—

(1) An indication of whether open land, such as fields, yards and parking areas, is available within the immediate vicinity of the building which is not heavily shaded by tall buildings, trees or other obstructions;

(2) A statement of whether the building is located generally within an urban, suburban or rural area;

(3) An approximation of whether more than half the building's roof area or southern oriented wall surface is heavily shaded by shrubs, trees, buildings or other obstructions for more than about four hours per day;

(4) The number of stories;

(5) A general description of the building's shape, such as square, rectangular, E-shaped, H-shaped or L-shaped;

(6) An indication of whether the roof is flat or pitched, and if pitched whether it has a southern orientation;

(7) Whether there are existing roof-top obstructions, such as chimneys, space conditioning equipment, water towers, mechanical rooms, stairwells or other permanent structures;

(8) An indication of the exterior material of the southern facing wall, such as masonry, wood, aluminum;

(9) An approximation of the proportion of glass area of the southern facing wall, such as less than 25 percent, 25–75 percent, more than 75 percent;

(10) Location of primary space heating and water heating systems—

(i) Whether outside of or within the building;

(ii) If within the building, whether on the ground floor, in the basement, or on the roof; and

(iii) If within the building, whether centrally located, in multiple units, or a combination thereof.

§ 450.43 Contents of an energy audit.

(a) An energy audit shall contain the information required for a preliminary energy audit, in accordance with § 450.42, and shall also include a description of—

(1) Major changes in functional use or mode of operation planned in the next fifteen years, such as demolition, disposal, rehabilitation, or conversion from office to warehouse;

(2) For a building in excess of 200,000 gross square feet, if available—

(i) Peak electric demand for both daily and annual cycles; and

(ii) Annual energy use by fuel type of the major mechanical or electrical systems if the information is available or can be reasonably estimated;

(3) Terminal heating or cooling, or both, such as radiators, unit ventilators,

fancoil units, or double-duct reheat systems;

(4) Building site and structural characteristics related to solar energy or other renewable resource potential, including but not limited to—

(i) Climatic factors, specifically—

(A) Average annual heating degree days and cooling degree days;

(B) Average solar insolation by month;

(C) Average monthly wind speed; and

(ii) Roof characteristics, including—

(A) An identification of primary structural component such as steel, wood, concrete; and

(B) Type of roofing material such as shingles, slate, or built-up materials; and

(5) A description of general building conditions.

(b) An energy audit shall—

(1) Indicate that appropriate energy conservation maintenance and operating procedures have been implemented for the building, supported by a demonstration based on actual records, that energy use has been reduced in a given year through changes in maintenance and operating procedures, by not less than 20 percent from a corresponding base period having a degree day variance of less than 10 percent; or

(2) Recommend appropriate energy conservation maintenance and operating procedures, on the basis of an on-site inspection and review of any scheduled preventive maintenance plan, together with a general estimate or range of energy and cost savings if practical, which may result from—

(i) Effective operation of ventilation systems and control of infiltration conditions, including—

(A) Repair of caulking or weatherstripping around windows and doors;

(B) Reduction of outside air intake, shutting down ventilation systems in unoccupied areas, and shutting down ventilation systems when the building is not occupied; and

(C) Assuring central or unitary ventilation controls, or both, are operating properly;

(ii) Changes in the operation of heating or cooling systems through—

(A) Lowering or raising indoor temperatures;

(B) Locking thermostats;

(C) Adjusting supply or heat transfer medium temperatures; and

(D) Reducing or eliminating heating or cooling at night or at times when a building or complex is unoccupied;

(iii) Changes in the operation of lighting systems through—

(A) Reducing illumination levels;

(B) Maximizing use of daylight;

(C) Using higher efficiency lamps; and
(D) Reducing or eliminating evening cleaning of buildings;

(iv) Changes in the operation of water systems through—

- (A) Repairing leaks;
- (B) Reducing the quantity of water used, e.g., flow restrictors;
- (C) Lowering settings for hot water temperatures;
- (D) Raising settings for chilled water temperatures; and
- (v) Changes in the maintenance and operating procedures of the utility plant and distribution system through—
- (A) Cleaning equipment;
- (B) Adjusting air/fuel ratio;
- (C) Monitoring combustion;
- (D) Adjusting fan, motor, or belt drive systems;

(E) Maintaining steam traps; and
(F) Repairing distribution pipe insulation; and

(vi) Such other actions as the State may determine useful or necessary, consistent with the purposes of the energy audit and acceptable cost constraints of section 450.46.

(c) Based on information gathered under paragraphs (a) and (b) of § 450.42, and paragraphs (a)(1) and (2) of this section, an energy audit shall indicate the need, if any, for the acquisition and installation of energy conservation measures and shall include an evaluation of the need and potential for retrofit based on consideration of one or more of the following—

(1) An energy use index or indices, for example, Btu's per gross square foot per year;

(2) An energy cost index or indices, for example, annual energy costs per gross square foot; or

(3) The physical characteristics of the building envelope and major energy-using systems.

(d) Based on information gathered under paragraph (c) of § 450.42 and subparagraph (a)(4) of this section, an energy audit shall include an indication of whether building conditions or characteristics present an opportunity for use of solar heating and cooling systems or solar hot water systems.

(e) An energy audit may include an assessment of the estimated costs and energy and cost savings likely to result from the purchase and installation of one or more energy conservation measures.

§ 450.44 Auditor qualifications.

Subject to the approval of the Secretary, a State shall develop procedures for establishing the qualifications of auditors who will conduct energy audits in accordance

with Subpart B of 10 CFR Part 455 which—

(a) Ascertain that a person conducting the energy audit is qualified by virtue of successful completion of an approved training program or demonstration of equivalent skills gained by prior training and experience, together with familiarity with the systems and operations of the types of buildings being audited.

(b) Assure that the person responsible for the energy audit is not the person directly responsible for the day-to-day operation of the building being audited.

(c) Assure disclosure by an auditor of her or his financial interests relating to the energy audit or any energy conservation measures, including solar energy or renewable resource measures, reviewed or recommended by the audit.

§ 450.45 Audit reports.

(a) The results of a preliminary energy audit or an energy audit, conducted in accordance with the requirements of this subpart, shall be contained in an audit report. Unless a claim of confidentiality is made by an audited institution based upon a specific provision of the Freedom of Information Act, 5 U.S.C. 552, and both the claim and reason for confidentiality are submitted with the audit report or within 10 days from the date the owner receives the report, an audit report shall be considered public information and will be made available for public review upon request.

(b) Preliminary energy audit reports and energy audit reports shall be furnished to the State, and the owner and operator of the building audited.

(c) An audit report for an energy audit shall include a statement signed by the auditor that—

(1) The auditor meets the applicable qualifications as set forth in § 450.44;

(2) The auditor has indicated any financial interests in accordance with § 450.44; and

(3) The audit was conducted in accordance with the requirements of § 450.43.

(d) The audit report shall state that implementation of energy conservation maintenance and operating procedures are a condition for eligibility for receiving Federal assistance under the technical assistance program, described in 10 CFR Part 455.

§ 450.46 Cost of energy audits.

(a) Except as provided in paragraph (b) of this section, the allowable cost of an energy audit under this program for the purpose of calculating the Federal share thereof, shall not exceed the following—

Building gross square feet	Allowable cost for calculating Federal share
Up to 30,000.....	\$400.00
30,000 to 100,000.....	\$500.00
100,000 and above.....	\$600.00
Complex.....	(¹)

¹The sum of individual building allowances for the first 150,000 gross square feet, and 60 percent of individual building allowances above 150,000 gross square feet but not to exceed \$10,000.

(b) Where necessary, States may increase the allowable cost of a particular energy audit, provided that the total of all such increases does not exceed 15 percent of the applicable State allocation. A State may permit increases for—

(1) The amount necessary to enable personnel from institutions having few buildings or in remote locations to attend training sessions qualifying them to perform energy audits;

(2) The amount necessary to provide transportation to perform energy audits of buildings in remote locations; and

(3) The amount necessary to conduct energy audits for a building having an unusually complicated system or configuration; however, this increase may not exceed 50 percent of the allowable cost for an individual building.

PART 455—GRANT PROGRAMS FOR SCHOOLS AND HOSPITALS AND BUILDINGS OWNED BY UNITS OF LOCAL GOVERNMENT AND PUBLIC CARE INSTITUTIONS

7. Subchapter D, Chapter II of Title 10 Code of Federal Regulations, is amended by establishing Part 455 as follows:

Subpart A—General Provisions

Sec.	
455.1	Purpose and scope.
455.2	Definitions.
455.3	Administration of grants.
455.4	Recordkeeping.
455.5	Suspension and termination of grants.

Subpart B—Preliminary Energy Audit and Energy Audit Grant Procedures

455.10	Purpose and scope.
455.11	Financial assistance.
455.12	Cost sharing.
455.13	Allocation of funds.
455.14	Submission and review of applications.
455.15	Content of applications.
455.16	Use of funds.
455.17	Reporting requirements.

Authority: Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.*, which establishes Parts G and H of Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, (42 U.S.C. 6321 *et seq.*); sec. 365(e)(2), (42 U.S.C. 6325(e)(2)), of the Energy Conservation and

Production Act, Pub. L. 94-385, (42 U.S.C. 6801 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91, (42 U.S.C. 7101 *et seq.*)

Subpart A—General Provisions

§ 455.1 Purpose and scope.

(a) This part establishes programs of financial assistance pursuant to Parts 1 and 2 of Title III of the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 306 *et seq.*, which adds Parts G and H, respectively, to Title III of the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6321 *et seq.*

(b) This subpart authorizes grants to States or to public or non-profits schools and hospitals to assist them in conducting preliminary energy audits and energy audits, in identifying and implementing energy conservation maintenance and operating procedures and in evaluating, acquiring and installing energy conservation measures, including solar energy or other renewable resource measures, to reduce the energy use and anticipated energy costs of buildings owned by schools, and hospitals.

(c) This subpart also authorizes grants to States or units of local government and public care institutions to assist them in conducting preliminary energy audits and energy audits, in identifying and implementing energy conservation maintenance and operating procedures and in evaluating energy conservation measures, including solar energy or other renewable resources measures, to reduce the energy use and anticipated energy costs of buildings owned by units of local government and public care institutions.

§ 455.2 Definitions.

"Act", as used in this part, means the Energy Policy and Conservation Act, Pub. L. 94-163, 42 U.S.C. 6321 *et seq.*, as amended by the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206.

"Auditor" means any person who is qualified in accordance with 10 CFR 450.44 to conduct an energy audit.

"Building" means any structure, the construction of which was completed on or before April 20, 1977, which includes a heating or cooling system, or both.

"Complex" means a closely situated group of buildings on a contiguous site, or a closely situated group of buildings served by a central utility plant, such as a college campus or a multi-building hospital.

"Construction completion" means the date of issuance of an occupancy permit for a building.

"Cooling degree days" means the annual sum of the number of Fahrenheit

degrees of each day's mean temperature above 65° for a given locality.

"DOE" means the Department of Energy.

"Energy audit" means any survey of a building or complex conducted in accordance with the requirements of Subpart E of 10 CFR Part 450.

"Energy conservation maintenance and operating procedure" means modifying in the maintenance and operations of a building, and any installations therein, which are designed to reduce the energy use in such building and which require no significant expenditure of funds.

"Energy conservation measure" means an installation or modification of an installation in a building which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including, but not limited to—

(1) Insulation of the building structure and systems within the building;

(2) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

(3) Automatic energy control systems;

(4) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(5) Active or passive solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(6) Active or passive solar water heating systems;

(7) Furnace or utility plant and distribution system modifications including—

(A) Replacement burners, furnaces, boilers, or any combination thereof, which substantially increase the energy efficiency of the heating system;

(B) Devices for modifying flue openings which will increase the energy efficiency of the heating system;

(C) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights; and

(D) Utility plant system conversion measures including conversion of existing oil and gas-fired boiler installations to alternative energy sources, including coal;

(8) Caulking and weatherstripping;

(9) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless such increase in illumination is necessary to conform to

any applicable State or local building code or, if no such code applies, the increase is considered appropriate by the Secretary;

(10) Energy recovery systems;

(11) Cogeneration systems which produce steam or forms of energy such as heat, as well as electricity for use primarily within a building or a complex of buildings owned by an eligible institution and which meet such fuel efficiency requirements as the Secretary may by rule prescribe;

(12) Such other measures as the Secretary identifies by rule for purposes of this part, as set forth in Subpart D of 10 CFR Part 450; and

(13) Such other measures as a grant application shows will save a substantial amount of energy and as are identified in an energy audit in accordance with Subpart C of 10 CFR Part 450.

"Grantee" means the person named in the Notification of Grant Award as the recipient of the grant.

"Grant program cycle" means the period of time specified by DOE which relates to the fiscal year or years for which monies are appropriated for grants under this part, during which one complete cycle of grant activity occurs, including fund allocations to the States, receipt, applications review, approval or disapproval, and grant awards.

"Governor" means the chief executive officer of a State, including the Mayor of the District of Columbia, or a person duly designated in writing by the Governor to act on her or his behalf.

"Heating or Cooling System" means any mechanical systems for heating or cooling conditioned areas of a building. For purposes of this part, any mechanical system for distributing air throughout the building is considered a cooling system.

"Heating degree days" means the annual sum of the number of Fahrenheit degrees of each day's mean temperature below 65° for a given locality.

"Hospital" means a public or nonprofit institution which is a general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care; and which is duly authorized to provide hospital services under the laws of the State in which it is situated.

"Hospital facilities" means buildings housing a hospital and related facilities, including laboratories, laundries, outpatient departments, nurses' home and training facilities and central service facilities operated in connection with a hospital, and also includes buildings housing education or training facilities for health professions

personnel operated as an integral part of a hospital.

"Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska native village, or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92-203; 85 Stat. 688, which (a) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or (b) is located on, or in proximity to, a Federal or State reservation or rancheria.

"Local educational agency" means a public board of education or other public authority or a nonprofit institution legally constituted within, or otherwise recognized by, a State for either administrative control or direction of, or to perform administrative services for, a group of schools within a State.

"Maintenance" means activities undertaken in a building to assure that equipment and energy-using systems operate effectively and efficiently.

"Native American" means a person who is a member of an Indian tribe.

"Operating" means the operation of equipment and energy-using systems in a building to achieve or maintain specified levels of environmental conditions or service.

"Owned" or "Owns" means a property interest, including without limitation a leasehold interest, which is, or shall become, a fee simple title in a building or complex.

"Preliminary energy audit" means any survey of a building or complex conducted in accordance with the requirements of Subpart E, of 10 CFR Part 450.

"Public care institution" means a public or nonprofit institution which owns—

(1) A facility for long-term care, rehabilitation facility, or public health center, as described in Section 1633 of the Public Health Service Act (42 U.S.C. 300s-3; 88 Stat. 2270); or

(2) A residential child care center, which is an institution, other than a foster home, operated by a public or non-profit institution and is primarily intended to provide full-time residential care with an average length of stay of at least 30 days for at least 10 minor persons who are in the care of such institution as a result of a finding of abandonment or neglect or of being persons in need of, treatment or supervision.

"Public or nonprofit institution" means an institution owned and operated by—

(1) A State, a political subdivision of a State or an agency or instrumentality of either; or

(2) A school or hospital which is, or would be in the case of such entities situated in American Samoa, Guam, Puerto Rico, and the Virgin Islands, exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1954; or

(3) A unit of local government or public care institution which is, or would be in the case of such entities situated in American Samoa, Guam, Puerto Rico, and the Virgin Islands, exempt from income tax under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954.

"School" means a public or nonprofit institution which—

(1) Provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis;

(2)(A) Provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis;

(B) Admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate;

(C) Is accredited by a nationally recognized accrediting agency or association; and

(D) Provides an educational program for which it awards a bachelor's degree or higher degree or provides not less than a two-year program which is acceptable for full credit toward such a degree at any institution which meets the preceding requirements and which provides such a program;

(E) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions cited in subdivisions (A), (B), and (C) of subparagraph (2) above; or

(4) Is a local educational agency.

"School facilities" means buildings housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

"Secretary" means the Secretary of the Department of Energy.

"State" means, in addition to the several States of the Union, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"State energy agency" means the State agency responsible for developing State energy conservation plans pursuant to Section 362 of the Energy Policy and Conservation Act, or, if no

such agency exists, a State agency designated by the Governor of such State to prepare and submit the State plan required under Section 394 of the Energy Policy and Conservation Act, as amended by the Energy Conservation and Production Act.

"State hospital facilities agency" means an existing agency which is broadly representative of the public hospitals and the nonprofit hospitals, or, if no such agency exists, an agency designated by the Governor of such State which conforms to the requirements of this definition.

"State school facilities agency" means an existing agency which is broadly representative of public institutions of higher education, nonprofit institutions of higher education, public elementary and secondary schools, nonprofit elementary and secondary schools, public vocational education institutions, nonprofit vocational education institutions, and the interests of handicapped persons in a State or, if no such agency exists, an agency which is designated by the Governor of such State which conforms to the requirements of this definition.

"Technical assistance" means a program or activity for (1) the conduct of specialized studies to identify and specify energy savings and related cost savings that are likely to be realized as a result of either modifying maintenance and operating procedures in a building, or both, and (2) the planning or administration of such specialized studies. For States, schools and hospitals, which are eligible to receive grants to carry out energy conservation measures, the term also means the planning or administration of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of energy conservation, solar energy or renewable resource measures in a building.

"Unit of local government" means the government of a county, municipality, parish, borough, or township, which is a unit of general purpose government below the State, determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes; the District of Columbia, American Samoa, Guam, and the Virgin Islands; the recognized governing body of an Indian tribe which governing body performs substantial governmental functions; libraries owned by any of the foregoing; and public libraries which serve all residents of a political subdivision below the State level, such as a community, district or region, free of charge and which derive at least 40 percent of their operating

funds from tax revenues of a taxing authority below the State level.

§ 455.3 Administration of grants.

(a) Grants provided under this part shall comply with applicable law including, but without limitation, the requirements of—

(1) Federal Management Circular 73-2, 34 CFR Part 251, entitled "Audit of Federal Operations and Programs by Executive Branch Agencies";

(2) Federal Management Circular 74-4, 34 CFR Part 255, entitled "Cost Principles Applicable to Grants and Contracts with State and Local Governments";

(3) Office of Management and Budget Circular A-102, 42 FR 45828, entitled "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments";

(4) Office of Management and Budget Circular A-110, 41 FR 32016, entitled "Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations";

(5) Office of Management and Budget Circular A-89, entitled "Catalog of Federal Domestic Assistance";

(6) Office of Management and Budget Circular A-97, entitled "Rules and Regulations Permitting Federal Agencies to Provide Specialized or Technical Services to State and Local Units of Government under Title III of the Intergovernmental Coordination Act of 1968";

(7) Treasury Circular 1082, entitled "Notification to States of Grant-in-Aid Information" and

(8) Civil rights requirements of law administered pursuant to the DOE Organization Act and the following public laws: Title VI of the Civil Rights Act of 1964; Section 16 of the Federal Energy Administration Act of 1974; Section 401 of the Energy Reorganization Act of 1974; Title IX of the Higher Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; and the Age Discrimination Act of 1975.

(b) Grants provided under this part shall comply with such additional procedures applicable to this part as DOE may from time to time prescribe for the administration of grants.

§ 455.4 Recordkeeping.

Each State or other entity within a State receiving financial assistance under this part shall make and retain records required by DOE, including records which fully disclose the amount and disposition of the financial assistance received; the total cost of the

administration and the activities for which assistance is given or used; the source and amount of any funds not supplied by DOE; and any data and information which DOE determines are necessary to protect the interest of the United States and to facilitate an effective financial audit and performance evaluation. The Secretary, or any of her or his duly authorized representatives, shall have access, until three years after the completion of the activities involved, to any books, documents, receipts or other records which the Secretary determines are related or pertinent, either directly or indirectly, to any financial assistance provided under this part.

§ 455.5 Suspension and termination of grants.

The Secretary may suspend or terminate financial assistance under a previously approved application if the Secretary determines the applicant has failed to comply substantially with the terms and conditions set forth in the application and this part. Suspension and termination procedures shall be as set forth in OMB circulars A-102 and A-110 as applicable.

Subpart B—Preliminary Energy Audit and Energy Audit Grant Procedures

§ 455.10 Purpose and scope.

(a) This subpart contains the regulations whereby the Federal Government shall provide financial assistance for preliminary energy audits and energy audits.

(b) Preliminary energy audits are to be performed by States for the purpose of—

(1) Determining the energy use characteristics of eligible school and hospital facilities, and buildings owned by units of local government and public care institutions, including the size, type, rate of energy use and major energy using systems of such buildings within the State;

(2) Establishing a data base from which reasonably accurate estimates can be made of the number of eligible institutions, the number of qualifying buildings, and patterns of energy conservation needs including an indication of the opportunities for use of solar or other renewable energy sources; and

(3) Assisting States in development of a sound and complete State Plan which is a prerequisite to receipt of financial assistance for technical assistance or energy conservation measures, including solar energy or other renewable resource measures.

(c) Energy Audits are to be performed by States or eligible schools, hospitals, units of local government and public care institutions for the purpose of—

(1) Determining the energy use characteristics of eligible school and hospital facilities, and buildings owned by units of local government and public care institutions, including the size, type, rate of energy use and major energy using systems of such buildings within the State;

(2) Identifying and encouraging adoption of energy conservation maintenance and operating procedures;

(3) Indicating potential, if any, for acquiring and installing energy conservation measures, including possible use of solar energy or other renewable resources; and

(4) Providing, to the greatest extent practical, consistent information necessary to identify those buildings to receive priority for additional financial assistance.

§ 455.11 Financial assistance.

(a) DOE shall provide financial assistance from sums appropriated only upon application in accordance with the provisions of this subpart.

(b) The Secretary may make grants for purposes of conducting preliminary energy audits and energy audits of school facilities and hospital facilities.

(c) The Secretary may make grants for purposes of conducting preliminary energy audits and energy audits of buildings owned by units of local government and public care institutions.

§ 455.12 Cost sharing.

(a) Amounts made available under this subpart, together with any other amounts made available from other Federal sources, may not be used to pay more than 50 percent of the costs of a preliminary energy audit or an energy audit, except as provided in paragraph (b) of this section.

(b) The Governor of a State may request a grant of up to 100 percent of the costs of any preliminary energy audit or energy audit for schools or hospitals. When financial assistance in excess of the 50 percent cost share limitation is provided to a State, the sum allocated to that State for technical assistance and energy conservation measures, including solar or other renewable resource measures shall be reduced by an equal amount. Such funds shall be reallocated among all other States on the same basis as the initial allocation. The Secretary may make such a grant if the State has demonstrated that—

(1) The State would otherwise be unable to participate in the program; and

(2) The amount of the additional financial assistance requested is the minimum necessary to allow the State to participate.

(c) Where a State has expended funds without financial assistance under this subpart for the conduct of preliminary energy audits or energy audits commenced on or after November 9, 1978, the Secretary may, upon application and approval under this subpart, accept all or any portion of such expenditures as constituting State matching funds.

(d) To the extent that funds allocated to a State for preliminary energy audits and energy audits are not needed because all potentially eligible buildings have had or will have an energy audit or its equivalent conducted, such funds may be made available for technical assistance or energy conservation measures. DOE shall, upon request by the State, redistribute funds not needed for preliminary energy audits and energy audits to the State allocation for technical assistance or energy conservation measures, as appropriate, and such funds shall be in addition to those which would otherwise be available for such purposes.

(e) Amounts made available from other than Federal sources shall come from State, local, or private sources and shall not be derived from revenue-sharing or any other Federal source, as determined by the Secretary.

§ 455.13 Allocation of funds.

(a) Financial assistance for conducting preliminary energy audits and energy audits of school facilities and hospital facilities shall be allocated among the States by multiplying the sum available by the allocation factor (F).

(b) Financial assistance for conducting preliminary energy audits and energy audits of buildings owned by units of local government and public care institutions shall be allocated among the States by multiplying the sum available by the allocation factor (F).

(c) The allocation factor (F) shall be determined by the formula—

$$F = \left(\frac{.1}{n} \right) + \left(\frac{.7 SP}{NP} \right) + \left(\frac{.2 SC}{NC} \right)$$

where, as determined by DOE—

(1) n is the total number of States;

(2) SP is the population of the State, as determined from 1976 census estimates,

"Current Population Reports" Series p-25, number 642, or territory as determined from 1973 census estimates, "Current Population Reports", Series p-25, number 603;

(3) NP is 217,820,000, the total population of all States;

(4) SC is the sum of the State's heating and cooling degree days, as determined from National Oceanic and Atmospheric Administration data for the thirty year period, 1941 through 1970; and

(5) NC is 347,729, the sum of all States' heating and cooling degree days.

(d) Financial assistance allocated to a State pursuant to this subpart for a grant program cycle which remains unobligated at the end of the grant program cycle shall, if available, be reallocated under paragraphs (a) or (b) of this section, as appropriate, in the subsequent grant program cycle.

§ 455.14 Submission and review of applications.

(a) To be eligible to receive financial assistance, a State shall complete and submit an original copy of the application to the Secretary. Such application shall be signed by the Governor or his designee.

(b) The first State application shall be submitted not later than 30 days after the effective date of this subpart. Subsequent State applications shall be submitted for each grant program cycle on or before the date established by the Secretary for—

(1) Schools and hospitals;

(2) Buildings owned by units of local government and public care institutions; or

(3) Both.

(c) The State shall consult with representatives of schools, hospitals, units of local government and public care institutions during the preparation of applications for financial assistance for preliminary energy audits and energy audits.

(d) The Governor may request an extension of the submission date for a State's application by sending a written request to the Secretary prior to the date upon which it is due. An extension will only be provided for good cause shown. Such a request shall include a brief discussion of work remaining to be done on the application and time required for its completion. An extension shall not exceed 60 days except where additional time may be required by a State to enact enabling legislation, or where the Secretary finds an additional extension to be consistent with the overall objectives of the Act and the requirements of this subpart.

(e) The Secretary shall review each timely State application and provide financial assistance if the Secretary determines that the application meets the objectives of the Act and the requirements of this subpart.

(f) All or any portion of an application under this section may be disapproved to the extent that funds are not available under this subpart to carry out such application or portion thereof.

(g) The Secretary shall state in writing the reasons any application is disapproved. Applications not approved by the Secretary may be resubmitted by the applicant at any time within the grant program cycle in the same manner as the original application, and the secretary shall approve such resubmitted application if it is found to be in compliance with the requirements of this subpart. Amendments of an application shall, except as the secretary may otherwise provide, be subject to approval in the same manner as the original application.

§ 455.15 Content of applications.

(a) An application shall contain—

(1) The name and mailing address of the proposed State grantee;

(2) A budget which shall include identification of the sources, amounts, and intended use of non-Federal funds required to meet the cost-sharing provisions of section 455.12; and

(3) Assurance that audit procedures to be employed will meet the requirements of Subpart E of 10 CFR Part 450.

(b) For each program for which financial assistance is sought, a State application shall also contain—

(1) A timetable, including a listing of milestones for the activities to be carried out by calendar quarters for each program for which financial assistance will be provided;

(2) A description of materials to be developed and adopted, or an identification of existing materials to be used, to meet the requirements for conducting preliminary energy audits and energy audits set forth in Subpart E of 10 CFT Part 450, including provision of data concerning heating degree days, cooling degree days, insulation, and wind speed for regions within the State;

(3) A description of the training to be provided those persons who will conduct energy audits. Such training shall, at a minimum, use as instructors architects or engineers who have had practical experience in performing energy audits. The minimum qualifications of those attending the training course, and the minimum qualifications of those who will be permitted to perform energy audits

without having attended the training course, shall also be described.

(4) An explanation of how the size of the sample and the selection of sample buildings will be determined in those instances where a sampling methodology is used in the conduct of preliminary energy audits.

(5) A description of the method which will be used to advise eligible institutions of the availability of assistance under this subpart, and the amounts available by categories of institutions as determined under paragraphs (c)(3) and (d)(2) of this section.

(c) A State application for financial assistance to conduct preliminary energy audits and energy audits of school and hospital facilities shall contain—

(1) A description of the procedures the State will use to provide funding or services to those schools and hospitals which are willing and able to conduct their own energy audits;

(2) A justification for any funding applied for in excess of the 50 percent limit provided in paragraph (a) of § 455.12;

(3) A description of the method by which funds will be apportioned between school facilities and hospital facilities, including a justification for the apportionment if fewer than all such facilities will be audited;

(4) An explanation of the manner in which activities to be conducted shall be consistent with—

(i) Related State programs for educational facilities in such State; and

(ii) State health plans under Sections 1524(c)(2) (42 U.S.C. 300m-3; 88 Stat. 2247) and 1603 (42 U.S.C. 300o-2; 88 Stat. 2259) of the Public Health Service Act; and

(5) A description of the actions taken by the State to solicit and consider the views of representatives of schools and hospitals during the preparation of the State's application.

(d) A State application for financial assistance to conduct preliminary energy audits and energy audits of buildings owned by units of local government and public care institutions shall contain a description of—

(1) The procedures the State will use to provide funding or services to those units of local government and public care institutions which are willing and able to conduct their own energy audits.

(2) The method by which funds will be apportioned between buildings owned by units of local government and public care institutions including a justification for the apportionment if fewer than all these buildings will be audited; and

(3) The action taken by the State to solicit and consider the views of representatives of units of local government and public care institutions during the preparation of the State's application.

(e) A State application shall set forth procedures—

(1) By which buildings or complexes eligible for preliminary energy audits and energy audits will be identified, and a listing thereof prepared and maintained.

(2) For the State to participate, on a selective sampling basis, in the performance of on-site energy audits to assure that the findings present a reasonably thorough and accurate assessment of the buildings surveyed; and

(3) For the State to conduct follow-up visits, on a selective sampling basis, to ascertain the degree of implementation of energy audit results.

§ 455.16 Use of funds.

(a) A State shall either carry out preliminary energy audits and energy audits of schools and hospitals, or provide for the conduct of such audits by schools and hospitals, through use of funds which the State has received pursuant to paragraph (b) of § 455.11.

(b) A State shall either carry out preliminary energy audits and energy audits of buildings owned by units of local government and public care institutions, or provide for the conduct of such audits by units of local government and public care institutions, through the use of funds which the State has received pursuant to paragraph (c) of § 455.11.

(c) No financial assistance provided under this subpart shall be expended for—

(1) The audit of—

(i) A vacant, unused or condemned building;

(ii) A stadium which is part of a school facility used primarily for exhibitions for which admission is charged and which is not also generally used for intramural sports and physical fitness programs generally available to all students; or

(iii) A building or complex owned by a unit of local government or a public care institution—

(A) Not primarily occupied by such institution; or

(B) Which is intended for seasonal use; and

(2) The purchase or acquisition of any single piece of equipment or personal or personal property costing more than \$300 to be used in conducting preliminary energy audits or energy

audits, unless prior written approval has been obtained from DOE.

(d) Of the financial assistance provided to a State under this subpart, not more than 15 percent shall be expended for—

(1) Administrative expenses;

(2) Development of materials for the conduct of preliminary energy audits and energy audits;

(3) Training of personnel to conduct energy audits;

(4) For conducting preliminary energy audits and sample energy audits; and

(5) For monitoring and evaluation.

(e) At least 75 percent of the financial assistance provided under this part shall be used in conducting energy audits of buildings, including costs of personnel attending training sessions conducting by the State preparatory to performing energy audits.

§ 455.17 Reporting requirements.

(a) Each State receiving financial assistance under this part shall submit to DOE a quarterly program performance report and a quarterly financial statement. The reports shall be submitted to DOE within 15 days following the end of each calendar quarter.

(b) The quarterly program performance report shall include—

(1) For those buildings which have received a preliminary energy audit or an energy audit, a summary of the categories, types of ownership, functional uses, gross square feet and energy use levels; and

(2) For those buildings which have received an energy audit—

(A) An estimate of the savings anticipated from energy conservation operation and maintenance procedure changes identified; and

(B) An approximation of the energy savings indicated from applicable energy conservation measures if the procedure used by the State results in such information or a summary of the number of buildings for which the energy audit indicates potential for energy conservation measures, including solar energy and renewable resource measures.

(c) The second quarterly report shall also include—

The total sum required for energy audits of buildings whose owners have been advised of selection to receive an energy audit;

(2) A copy of the materials adopted by the State for conducting energy audits;

(3) The apportionment of funds pursuant to subparagraphs (c)(3) and (d)(2) of § 455.15 and the data on which such apportionment was based;

(4) The listing of institutions and their buildings compiled pursuant to the provisions of paragraph (e)(1) § 455.15, summarized by category, types of ownership, and functional use;

(5) Any necessary revisions to the estimate of the characteristics and energy conservation potential of buildings owned by eligible institutions resulting from the sample preliminary energy audits, if a sampling approach was used.

(d) Copies of preliminary energy audit and energy audit reports made by or furnished to the State under § 450.45 of 10 CFR Part 450 shall be submitted to DOE together with the quarterly report.

(e) Reports shall contain such other information as may be required by DOE.

[FR Doc. 79-8996 Filed 3-30-79; 8:45 am]

BILLING CODE 6450-01-M

Great Lakes Federal Register

**Monday
April 2, 1979**

**Part VII
Department of
Transportation**

Coast Guard

Great Lakes Pilot Qualification Standards

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 401

Great Lakes Pilot Qualification Standards

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the Great Lakes Pilotage Regulations so that they will conform with amendments to the Great Lakes Pilotage Act of 1960, recently adopted by Congress. Qualification standards for United States Registered Pilots are changed by eliminating the requirement for an unlimited master's license and inserting new standards adopted by Congress. Other minor technical and editorial amendments are included in this document.

EFFECTIVE DATE: April 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. John J. Hartke (G-MVP-4/82) Room 8214, Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-755-8683).

SUPPLEMENTARY INFORMATION: This rule is issued without notice or opportunity for public comment because it reflects statutory changes adopted by Congress. Some additional changes are purely editorial corrections and are unlikely to generate any significant comment. Notice and public comment are thus unnecessary and the rule may be made effective in less than 30 days from publication in the *Federal Register*. (5 U.S.C. 553).

Drafting Information

The principal persons involved in drafting this proposal are: John J. Hartke, Project Manager, Office of Merchant Marine Safety, and LT. G. S. Karavitis, Project Attorney, Office of the Chief Counsel.

Discussion of the Regulations

The Great Lakes Pilotage Act of 1960 (46 U.S.C. 216-216i) was amended on October 13, 1978 (Pub. L. 95-455). The amendments changed the qualification standards for U.S. registered pilots on the Great Lakes by removing the prerequisite requirement for an unlimited master's license. The new law requires that each applicant must be the holder of a license, as a master, mate, or pilot, issued under the authority of the provisions of Title 52 of the Revised Statutes, and have acquired at least

twenty-four months licensed service or comparable experience on vessels or integrated tugs and tows, 4,000 gross tons or over, operating on the Great Lakes or oceans. The new law further states that those applicants qualifying with ocean service must have obtained at least six months of licensed service or comparable experience on the Great Lakes.

As a result of these amendments the Great Lakes Pilotage regulations, 46 CFR Part 401, now contains obsolete provisions. This rule updates the definitions of "Canadian Registered Pilot" and "United States Registered Pilot" contained in § 401.110 in order to conform to the changed statutory definitions of those terms. This rule also deletes references to the old qualifications contained in §§ 401.210, 401.211, 401.220 and 401.230 and revises the language of those sections to conform to the statute.

The new law also provided clarifying amendatory language which conforms with the intent of the 1966 Reorganization Act which transferred all functions, powers, and duties from the Secretary of Commerce to the Secretary of Transportation, relative to Great Lakes pilotage. This change is also incorporated in these rules. An editorial correction of an inaccurate zip code in the address of the Commandant is also made.

The amendments to the Great Lakes Pilotage Act also provided authority to the Secretary of Transportation to develop additional regulations as to qualifications, terms, and conditions for registration of pilots. This was done in order to assure adequate and efficient pilotage service, equitable participation of United States registered pilots with Canadian registered pilots on vessels to which the Act applies, and to provide fair and reasonable opportunity for registration. The Coast Guard is proposing these additional rules in a companion document (CGD 78-144b) published in this issue of the *Federal Register*.

This Final Rule has been evaluated under the Department of Transportation Regulatory Policies and Procedures published on February 26, 1979 (44 FR 11034). No significant adverse environment or economic consequences are anticipated, since this rule merely incorporates into the regulations statutory changes adopted by Congress.

In consideration of the foregoing, Part 401 of Title 46 of the Code of Federal Regulations is amended as follows:

1. In § 401.110, paragraphs (a) (2), (3), (6) and (8) are revised to read as follows:

§ 401.110 Definitions.

(a) * * *

(2) "Commandant" means Commandant, U.S. Coast Guard, Department of Transportation, Washington, D.C. 20590.

(3) "Canadian Registered Pilot" means a person, other than a member of the regular complement of a vessel, who holds an appropriate Canadian license issued by an agency of Canada, and is registered by a designated agency of Canada on substantially the same basis as registration under the provisions of Subpart B of this part.

(6) "Other officer" means the master or any other member of the regular complement of the vessel concerned who is qualified for the navigation of those United States waters of the Great Lakes which are not designated by the President in Proclamation No. 3385 dated December 22, 1960 and who is either licensed by the Secretary or certificated by an appropriate agency of Canada.

(8) "United States registered pilot" means a person, other than a member of the regular complement of a vessel, who holds a license authorizing navigation on the Great Lakes and suitably endorsed for pilotage on routes specified therein, issued under the authority of the provisions of Title 52 of the revised Statutes, and who is also registered under the provisions of Subpart B of this part.

2. In § 401.210, paragraphs (a) (1) and (7) are revised to read as follows:

§ 401.210 Requirements and qualifications for registration.

(a) * * *

(1) The individual holds a license as a master, mate, or pilot, issued under the authority of the provisions of Title 52 of the Revised Statutes, and has acquired at least twenty-four months licensed service or comparable experience on vessels or integrated tugs and tows, of 4,000 gross tons, or over, operating on the Great Lakes or oceans. Those applicants qualifying with ocean service must have obtained at least six months of licensed service or comparable experience on the Great Lakes.

(7) He agrees that he will be available for service under the terms and conditions as may be approved or prescribed by the Commandant.

3. In § 401.211, paragraph (a)(3) is deleted and paragraph (a)(4) renumbered to (a)(3) as follows:

§ 401.211 Requirements for training of Applicant Pilots.

(a) * * *

(3) He possesses a radar observer competency certificate or equivalent U.S. Coast Guard endorsement.

4. In § 401.220, paragraph (d) is revised to read as follows:

§ 401.220 Registration of pilots.

(d) Subject to the provisions of paragraphs (a), (b), and (c) of this section, a pilot found to be qualified under this subpart shall be issued a Certificate of Registration, valid for a term of two (2) years or until the expiration of his master's, mate's, or pilot's license issued under the authority of Title 52 of the Revised Statutes or until the pilot reaches age 65, whichever occurs first.

5. In § 401.230, paragraph (a) is revised to read as follows:

§ 401.230 Certificates of Registration.

(a) A Certificate of Registration shall describe the part or parts of the Great Lakes within which the pilot is authorized to perform pilotage services and such description shall not be inconsistent with the terms of the pilotage authorization in his master's, mate's, or pilot's license issued under the authority of Title 52 of the Revised Statutes.

(Secs. 4 and 5, 74 Stat. 260 as amended by P. L. 95-455 (46 USC 216b, 216c); Sec. 6(a)(4), 80 Stat. 937 as amended. (49 USC 1655(a)(4); 49 CFR 1.46(a)).

Dated: 28 Mar 1979

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 79-10088 Filed 3-30-79; 8:45 am]

[CGD 78-144a]

BILLING CODE 4910-14-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 401 and 402]

GREAT LAKES PILOTAGE REGULATIONS

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to amend the Great Lakes Pilotage Regulations by changing training and experience requirements for the registration of pilots, increasing the length of time that pilots may hold their certificates and adding clarifying definitions for certain terms used in the regulations. The amendments are proposed in response to statutory changes. These amendments are intended to increase the availability of pilots with the requisite experience for safe operations on the Great Lakes.

DATES: Comments must be received on or before: May 2, 1979.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), (CGD 78-144b), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke (G-MVP-4/82) Room 8214, Department of Transportation, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202-755-8683).

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include the commentator's name and address, identify this notice (CGD 78-144b) and the specific section of the proposal to which the comment applies, and give the reasons for the comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the *Federal Register* if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

Drafting Information

The principal persons involved in drafting this proposal are: John J. Hartke, Project Manager, Office of Merchant Marine Safety, and LT G. S. Karavitis, Project Attorney, Office of the Chief Counsel.

Discussion of the Proposed Regulations

The Great Lakes Pilotage Act of 1960 (46 U.S.C. 216-216i) was amended on October 13, 1978 (Pub. L. 95-455). The purpose of amending the law was to relieve the restrictive qualifications standards for U.S. registered pilots on the Great Lakes by removing the prerequisite requirement for an unlimited master's license. Additional requirements were adopted by Congress to substitute for this requirement. The Great Lakes Pilotage Regulations are changed to conform with the new law in an accompanying document (78-144a), published in this issue of the *Federal Register*. The new law also permits the Secretary to require additional experience and training as he considers necessary. In addition to proposing the additional experience and training discussed below, these amendments are expected to help relieve the present and projected future shortage of qualified individuals who might be available as applicants for registration as U.S. registered pilots.

The Coast Guard is also adding definitions to clarify terms used in the regulations but not previously defined.

In order to become a registered pilot, existing regulations require a number of trips to be made that are in addition to those needed to obtain a pilot's license or pilotage endorsement. The Coast Guard proposes that the concept of requiring additional training trips as a condition of registration be retained and that the number of additional trips be increased for those applicants holding a license other than a master's license. It is proposed that, within one year after application for registration, each applicant pilot must complete a minimum number of round trips over the waters for which registration is desired on ocean-going vessels in the company of a registered pilot. The minimum number of these additional round trips would be as follows.

(1) If the applicant pilot holds a master's license, a minimum of five round trips are required over the waters for which registration is desired.

(2) If the applicant pilot holds a chief mate's license or a second mate's license, or, a first class pilot's license with service in the capacity of first mate or second mate, a minimum of eight

round trips are required over the waters for which registration is desired.

(3) If the applicant pilot holds a first class pilot's license or a third mate's license, a minimum of twelve round trips are required over the waters for which registration is desired.

The Coast Guard also proposes to increase the mandatory retirement age for U.S. Great Lakes registered pilots from age 65 to 70. The Age Discrimination in Employment Act Amendments of 1978 (P.L. 95-256) raise the minimum mandatory retirement age from 65 to 70. The mandatory retirement age, while increased, is retained because of the rigors of the job, namely, climbing up and down rope pilot ladders hung over the side of the ships, getting on and off pilot boats, and doing a considerable amount of travel. Each of these tasks must be performed at all hours of the day or night and in all kinds of weather.

The Coast Guard also proposes that a certificate of registration be valid for a term of five years or until the expiration of the pilot's master's, mate's or pilot's license or until the pilot reaches age 70, whichever occurs first. Presently, a certificate of registration is valid for a term of two years. Deck officer licenses issued under the authority of Title 52 of the Revised Statutes are valid for a period of five years and the Coast Guard finds no reason why a certificate of registration should not also be valid for five years. Allowing the registration as a pilot to coincide with the term of the basic license will ease the administrative burden on both the pilots and the Coast Guard.

The Coast Guard also proposes that an applicant pilot may be registered for the undesignated waters (Lakes) without, at the same time, being registered for the designated waters (Rivers). The applicant pilot in this instance would still have to meet all of the requirements contained in § 401.210 and § 401.220. Registration in this manner permits a more efficient utilization of pilots by allowing an individual to provide pilotage services in an area where he is fully qualified and competent even though he may not have met the requirements to provide services throughout the entire pilotage district. This proposal would result in an amendment to §§ 401.220(b) and 401.320(b).

It is also proposed to eliminate the five dollar registration fee that accompanies the application for registration. The cost of processing a registration fee exceeds the five dollars received. Since the cost of issuing the registration card is less than one dollar,

eliminating the fee will save the Coast Guard money.

This proposal has been evaluated under the Department of Transportation Regulatory Policies and Procedures published on February 26, 1979 (44 FR 11034). No significant adverse environmental or economic consequences are anticipated.

In consideration of the foregoing, it is proposed to amend Part 401 and Part 402 of Title 46 of the Code of Federal Regulations as follows:

1. By adding new subparagraphs (12), (13), (14), and (15) to § 401.110(a) to read as follows:

§ 401.110 Definitions.

(a) * * *

(12) "Applicant Pilot" means a person who holds a license as a master, mate, or pilot, issued under the authority of the provisions of Title 52 of the Revised Statutes, and has acquired at least twenty-four months licensed service or comparable experience on vessels or integrated tugs and tows, of 4,000 gross tons or over, operating on the Great Lakes or oceans, and who has applied for registration under the provisions of Subpart B of this part. Those persons qualifying with ocean service must have obtained at least six months of licensed service or comparable experience on the Great Lakes.

(13) "Applicant Trainee" means a person who is in training to become an Applicant Pilot with an organization authorized to provide pilotage services.

(14) "Pool" means an organization authorized to provide pilotage services.

(15) "Comparable experience" means experience that is similar to the experience obtained by serving as an officer on a vessel. One month of training and experience while participating in a pilot training program of an authorized pilot organization is considered equivalent to one month of experience as an officer on a vessel. The training program of the authorized pilot organization must, however, include regularly scheduled trips on vessels of 4,000 gross tons or over in the company of a registered pilot.

§ 401.200 [Amended]

2. By amending § 401.200 by deleting paragraph (b).

3. By amending § 401.210(a)(5) to read as follows:

§ 401.210 Requirements and qualifications for registration.

(a) * * *

(5) The individual has not reached the age of 70.

* * * * *

4. By revising § 401.211 to read as follows:

§ 401.211 Requirements for training of Applicant Pilots.

(a) * * *

(b) An Applicant Trainee who is unable to meet the qualification requirements contained in § 401.210(a)(1) may substitute training experience under the auspices and supervision of an authorized pilot organization on a month for month basis if the authorized pilot training program includes regularly scheduled trips on vessels of 4,000 gross tons or over in the company of a registered pilot.

(c) The Director shall approve the United States Registered Pilots that are designated by the authorized pilot organization to provide training to those pilots that are in training to be registered pilots.

(d) Persons desiring to be considered as an Applicant Pilot shall file with the Director a completed Application Form, CG-4509, in duplicate, together with two full-face photographs, 1½ inches by 2 inches, signed on the face, and a completed fingerprint chart.

(e) Individuals selected as Applicant Pilots by the Director shall be issued a U.S. Coast Guard Applicant Pilot Identification Card, which shall be valid until such time as (1) the applicant is registered as a pilot under § 401.210; (2) the applicant withdraws from the training program; or (3) upon withdrawal by the Director.

* * * * *

5. By revising § 401.220(b) and (d) to read as follows:

§ 401.220 Registration of Pilots.

(a) * * *

(b) Registration of pilots shall be made from among those Applicant Pilots who have (1) completed the minimum number of trips prescribed by the Commandant over the waters for which application is made on oceangoing vessels, in company with a Registered Pilot, within 1 year of date of application, (2) completed a course of instruction for Applicant Pilots prescribed by the association authorized to establish the pilotage pool, (3)

satisfactorily met the requirements and qualifications for registration prescribed by § 401.210, (4) satisfactorily completed a written examination prescribed by the Director, evidencing his knowledge and understanding of the Great Lakes Pilotage Act of 1960; the Great Lakes Pilotage Regulations, Rules and Orders; the Memorandum of Arrangements, Great Lakes Pilotage, between the United States and Canada; and other related matters including the working rules and operating procedures of his district, given at such time and place as the Director may designate within the pilotage district of the Applicant Pilot.

(c) * * *

(d) Subject to the provisions of paragraphs (a), (b), and (c) of this section, a pilot found to be qualified under this subpart shall be issued a Certificate of Registration, valid for a term of five (5) years or until the expiration of his master's mate's or pilot's license issued under the authority of Title 52 of the Revised Statutes or until the pilot reaches age 70, whichever occurs first.

* * * * *

6. Revising § 401.320(b) to read as follows:

§ 401.320 Requirements and qualifications for authorization to establish pools.

* * * * *

(b) The stock, equity, or other financial interests coupled with voting rights or exercise of any right of control in the management of the voluntary association is held only by a member Registered Pilots registered for waters designated by the President pursuant to section 3(a) of the Great Lakes Pilotage Act of 1960, and registered pursuant to § 401.200 and § 401.210.

* * * * *

7. By revising § 402.220(a) to read as follows:

§ 402.220 Registration of pilots.

(a) The minimum number of round trips which each applicant pilot is required to complete prior to registration as a U.S. registered pilot over the waters for which application is made on oceangoing vessels of 4,000 gross tons or over in company with a registered pilot within one year of date of application for registration shall be as follows:

(1) If the applicant pilot holds a master's license, a minimum of five round trips are required over the waters for which registration is desired.

(2) If the applicant pilot holds a chief mate's license or a second mate's license, or, holds a first class pilot's license with service in the capacity of first mate or second mate, a minimum of eight round trips are required over the waters for which registration is desired.

(3) If the applicant pilot holds a first class pilot's license or a third mate's license, a minimum of twelve round trips are required over the waters for which registration is desired.

* * * * *

(Sec. 4 and sec. 5, 74 Stat. 260 (46 U.S.C. 216(b), 216(c)) as amended by Pub. L. 95-455; sec. 6(a)(4), 80 Stat. 937, as amended (49 U.S.C. 1655(a)(4)); 49 CFR 1.46(a))

Dated: March 28, 1979.

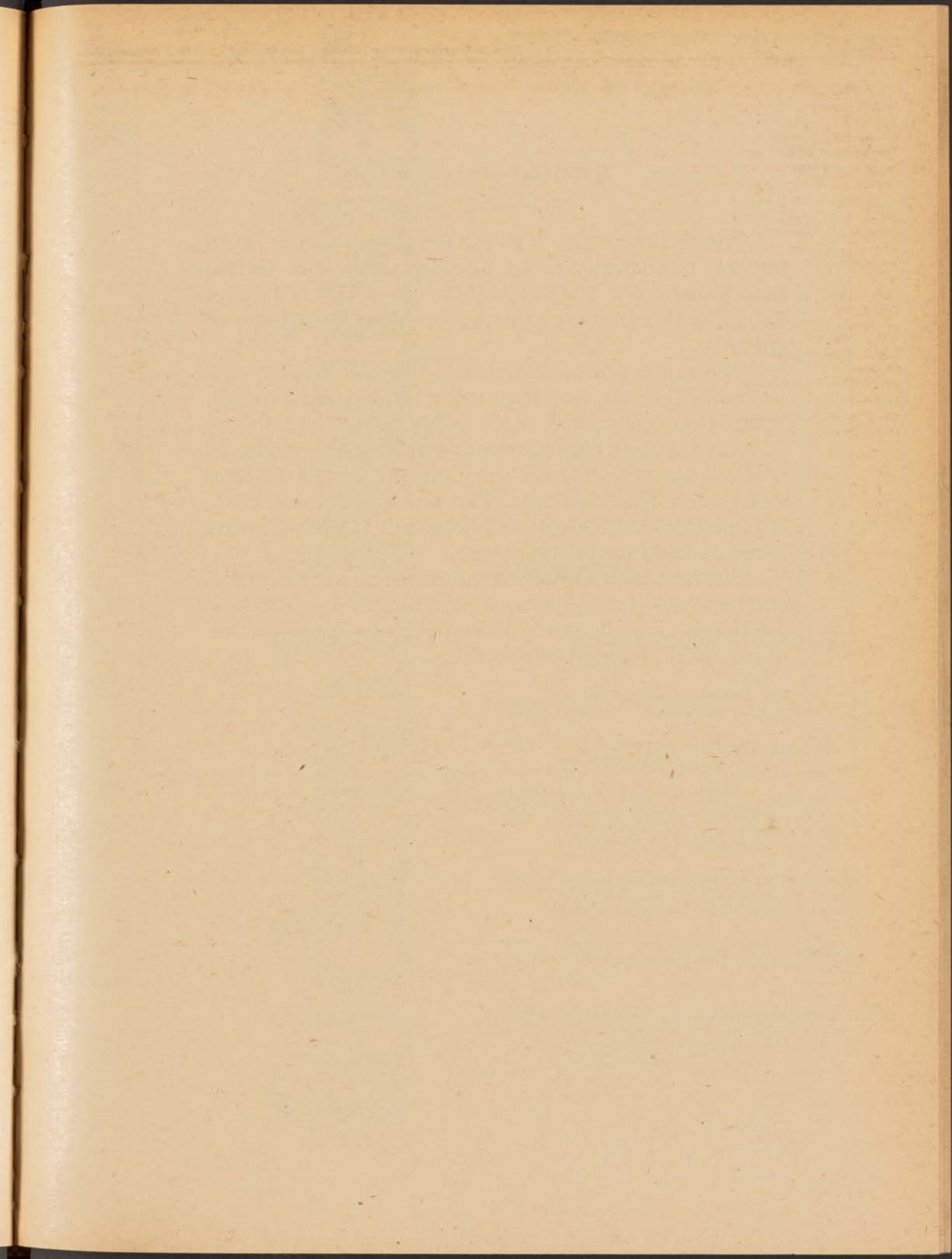
J. B. Hayes

Admiral, U.S. Coast Guard Commandant.

[CGD 76-1446]

[FR Doc. 79-10089 Filed 3-30-79; 8:45 am]

BILLING CODE 4910-14-M



Announcement

The Office of the Federal Register is planning to publish periodically a list of libraries in the United States where the *Federal Register* and *Code of Federal Regulations* can be examined by the public free of charge.

The purpose of publishing this list is to spotlight the availability to the public of these publications. Any library that maintains these publications and makes them available to the public and wishes to be included in this list should write to the Director of the Federal Register, National Archives and Records Service, GSA, Washington, D.C. 20408, or phone 202-523-5240, giving name and address of the library.

The first such list will be published on July 2, 1979—will be updated in the issue for September 4, and will be published annually thereafter unless public interest requires more frequent publication.